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SERVICE DATE - JANUARY 6, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-487 (Sub-No. 2X)

PITTSBURG & SHAWMUT RAILROAD, INC.--ABANDONMENT EXEMPTION--IN
JEFFERSON COUNTY, PA

Decided: December 19, 1997

By petition filed September 18, 1997, Pittsburg & Shawmut Railroad, Inc. (PSRR), seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a line of railroad known as the Conifer Branch, extending from milepost 0.00 (milepost 24.29 on the main line of the Shawmut Subdivision), located south of Norman, PA, to milepost 5.08, located at or near Conifer, PA, a distance of 5.08 miles, in Jefferson County, PA. Pursuant to 49 U.S.C. 10502(b), a notice was published in the Federal Register (62 FR 52617) on October 8, 1997, instituting an exemption proceeding. We will grant the exemption subject to standard employee protective conditions.

BACKGROUND

PSRR owns approximately 216 miles of rail line in Pennsylvania. PSRR purchased the Conifer Branch from the Pittsburg & Shawmut Railroad Company in April 1996. There are no active shippers on the line. According to PSRR, it last provided service on the line in June 1996, when a boxcar of hardwood lumber was shipped by Plunkett-Webster.¹ PSRR avers that there are no prospects for future service.

The Conifer Branch was constructed in the early 1900's. PSRR states that 2.08 miles of the track were removed more than 30 years ago. On the remaining 3 miles, the rail and ties are generally in poor condition, and the roadbed contains many washouts caused by local flooding in July 1996. PSRR asserts that, because of the absence of traffic, there is no justification for it to continue to incur the costs necessary to maintain and operate the line.

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 10903, a rail line may not be abandoned without prior approval. Under 49 U.S.C. 10502, however, we must exempt a transaction or service from regulation when we find that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

¹ PSRR certified that a copy of the petition was served on Plunkett-Webster.

Detailed scrutiny under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy. By minimizing the administrative time and expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. Moreover, by allowing PSRR to avoid maintenance and operating costs on an unprofitable line and to apply its assets more productively elsewhere on its system, an exemption will promote a safe and efficient rail transportation system, foster sound economic conditions in transportation and encourage efficient management [49 U.S.C. 10101(3), (5), and (9)]. Other aspects of the rail transportation policy are not affected adversely.

Regulation of the proposed transaction is not necessary to protect shippers from the abuse of market power because there are no active shippers on the line. Nevertheless, to ensure that Plunkett-Webster is aware of our action, we will require PSRR to serve a copy of this decision on Plunkett-Webster within 5 days of the service date of this decision and to certify to the Board that it has done so. Given our market power finding, we need not determine whether the proposed transaction is limited in scope.

Under 49 U.S.C. 10502(g), we may not use our exemption authority to relieve a carrier of its statutory obligation to protect the interests of its employees. Accordingly, as a condition to granting this exemption, we will impose the employee protective conditions in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979).

PSRR has submitted an environmental report with its petition and has notified the appropriate Federal, state, and local agencies of the opportunity to submit information concerning the energy and environmental impacts of the proposed abandonment. See 49 CFR 1105.11. Our Section of Environmental Analysis (SEA) has examined the environmental report, verified the data it contains, analyzed the probable effects of the proposed action on the quality of the human environment, and served an environmental assessment (EA) on November 21, 1997. SEA did not recommend imposition of any environmental conditions.

No comments to the EA were filed by the December 17, 1997 due date. Based on SEA's recommendation, we conclude that the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

SEA states that following the line's abandonment, the right-of-way may be suitable for other public use under 49 U.S.C. 10905. We note that no one has sought a public use condition, and none will be imposed.

It is ordered:

1. Under 49 U.S.C. 10502, we exempt from the prior approval requirements of 49 U.S.C. 10903, the abandonment by PSRR of the above-described line, subject to the employee protective conditions in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979).

2. PSRR is directed to serve a copy of this decision on Plunkett-Webster within 5 days after the service date of this decision and to certify to the Board that it has done so.

3. An offer of financial assistance (OFA) under 49 CFR 1152.27(c)(1) to allow rail service to continue must be received by the railroad and the Board by January 16, 1998, subject to time extensions authorized under 49 CFR 1152.27(c)(1)(i)(C). The offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Each OFA must be accompanied by the filing fee, which currently is set at \$900. See 49 CFR 1002.2(f)(25).

4. OFAs and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope: **“Office of Proceedings, AB-OFA.”**

5. Provided no OFA has been received, this exemption will be effective February 5, 1998. Petitions to stay must be filed by January 21, 1998, and petitions to reopen must be filed by February 2, 1998.

6. Pursuant to the provisions of 49 CFR 1152.29(e)(2), PSRR shall file notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by PSRR's filing of a notice of consummation by January 6, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If a legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed no later than 60 days after satisfaction, expiration, or removal of the legal or regulatory barrier.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary