

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-303 (Sub-No. 27)

WISCONSIN CENTRAL LTD.–ABANDONMENT–  
IN OZAUKEE, SHEBOYGAN AND MANITOWOC COUNTIES, WI

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: December 3, 2004

By decision and certificate of interim trail use or abandonment served on October 18, 2004, the Board granted authority to Wisconsin Central Ltd. (WCL), under 49 U.S.C. 10903, to abandon a 37-mile line of railroad, known as the Plymouth Line, extending from milepost 114.8 near Saukville to milepost 151.8 near Kiel in Ozaukee, Sheboygan and Manitowoc Counties, WI, subject to trail use, environmental and standard employee protective conditions. The decision and certificate was scheduled to become effective on November 17, 2004, unless an offer of financial assistance (OFA) was filed on or before October 28, 2004.

On October 27, 2004, the Wisconsin Department of Transportation (WisDOT) and the Wisconsin & Southern Railroad Co. (WSOR) (offerors) jointly filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27 for WisDOT to purchase the assets of, and for WSOR to operate, the entire 37-mile Plymouth Line. By decision served on November 1, 2004, the effective date of the decision authorizing the abandonment was postponed to permit the OFA process to proceed.

By letter filed on December 1, 2004, WCL, WSOR, and WisDOT advised the Board that they have reached an agreement on the terms and conditions for purchase of the line.<sup>1</sup>

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<sup>1</sup> WisDOT simultaneously filed a petition for declaratory order in STB Finance Docket No. 34623, Wisconsin Department of Transportation–Petition for Declaratory Order, asking that the Board determine that it and the Eastern Wisconsin Counties Rail Consortium will not become rail common carriers subject to the Board's jurisdiction by acquiring the line. WisDOT indicated that the agreed-upon sale transaction is contingent on a favorable Board ruling on WisDOT's petition for declaratory order. The petition will be addressed by the Board in a separate decision.

When a carrier and a person offering to purchase a line enter into an agreement for continued rail service, the Board is required to approve the transaction and dismiss the abandonment application. 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2). Accordingly, the sale will be approved and the application will be dismissed.<sup>2</sup>

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 10904, WisDOT is authorized to acquire and WSOR is authorized to operate the line.
2. Under 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2), the abandonment application is dismissed effective on the date the sale is consummated.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary

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<sup>2</sup> The October 18, 2004 decision imposed environmental conditions and provided that requests for issuance of a certificate of interim trail use under the National Trails System Act, 16 U.S.C. 1247(d) would be delayed pending completion of the OFA process. The financial assistance process under 49 U.S.C. 10904 takes priority over interim trail use/rail banking. Because the line is being sold under the OFA procedures, upon consummation of the OFA sale, the dismissal of the abandonment proceeding will render the environmental conditions moot and preclude trail use.