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Expedited Action Requested

December 8, 2005

VIA HAND DELIVERY

The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 711
Washington, D.C. 20423



Re: Docket No. AB-290 (Sub-No. 259X) Tennessee Railway Company
Between Oneida, Tennessee and Nicks Creek, Tennessee
Docket No. AB-290 (Sub-No. 260X), Tennessee Railway Company –
Abandonment Exemption – In Anderson and Campbell Counties, Tennessee

Dear Secretary Williams:

Enclosed for filing in the referenced proceedings, please find an original and 10 copies of the Joint Petition to Continue to Hold Proceedings in Abeyance. In light of the impending deadline sought to be held in abeyance, expedited consideration of the Petition is requested.

An additional copy of the Petition also is enclosed. Kindly indicate receipt and filing by time-stamping this copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

ENTERED
Office of Proceedings

Sincerely,

Kelvin J. Dowd
An Attorney for
National Coal Corporation

Enclosure

cc: Mr. Joseph Dettmar

Expedited Action Requested

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



TENNESSEE RAILWAY COMPANY –)
ABANDONMENT EXEMPTION –)
BETWEEN ONEIDA, TENNESSEE AND) Docket No. AB-290 (Sub-No. 259X)
NICKS CREEK, TENNESSEE – IN SCOTT)
COUNTY, TENNESSEE)

TENNESSEE RAILWAY COMPANY –)
ABANDONMENT EXEMPTION – IN)
ANDERSON AND CAMPBELL) Docket No. AB-290 (Sub-No. 260X)
COUNTIES, TENNESSEE)

**JOINT PETITION TO CONTINUE TO
HOLD PROCEEDINGS IN ABEYANCE**

Pursuant to 49 C.F.R. Parts 1104.7(b) and 1117.1, National Coal Corporation (“NCC”) and Norfolk Southern Railway Company and its wholly-owned subsidiary, Tennessee Railway Company (collectively “NS”), petition the Board for an order to continue to hold further proceedings in the captioned dockets in abeyance until January 31, 2006, in order to allow the parties time to formalize and close on a private agreement whereunder NCC will acquire and restore service over the lines at issue in these dockets.

In support hereof, NCC and NS show as follows:

1. By Decision served July 14, 2005, the Board granted a request by NCC and NS to extend the due date for either party to submit a request that the Board establish the terms and conditions for a purchase of the subject lines by NCC under the provisions of 49 U.S.C. § 10904, to August 12, 2005. This was done to facilitate ongoing negotiations between the parties over the terms of such a purchase. The Board further extended the deadline until September 15, 2005 in a decision served on August 12, 2005, and again extended the deadline to September 30, 2005 in a Decision served on September 15, 2005, in response to joint requests by NCC and NS. On September 29, 2005, the parties filed a Joint Petition to Hold Proceedings in Abeyance until December 15, 2005. Therein, the parties advised the Board that they had reached an agreement in principle as to the essential terms of a comprehensive transaction whereunder NCC (or its designee) will acquire the subject lines and restore rail operations. At the time, the parties believed that they could conclude negotiations over the necessary agreements and close on the purchase by December 15. The Board granted this petition in an order served on September 30, 2005.

2. Since the Board's September 30 Order, NCC and NS have worked assiduously to formalize their agreements and finalize the many different documents involved in concluding the sale of the lines and the restoration of operations. Despite these efforts, however, NCC and NS now find that they need additional time to prepare

the formal deeds, agreements and other documents for closing, complete the due diligence process, review third party agreements, licenses and easements that also will transferred and otherwise prepare for the transfer of ownership and renewal of service.¹ Completion of this process is further complicated by scheduling difficulties resulting from the upcoming holiday season, and additional commitments of counsel for both parties.

3. Consistent with 49 C.F.R. Parts 1104.7(b) and 1117.1, good cause exists for the Board to hold further proceedings in these dockets in abeyance pending the formalization of the parties' agreement and eventual closing on or before January 31, 2006. The relief requested will afford NCC and NS the opportunity to conclude their transaction, at which point NS will request dismissal of these dockets. As the parties noted in their prior requests for due date extensions, this private sector solution will conserve administrative resources and directly serve the national transportation policy goal of minimizing the need for federal regulatory intervention. *See* 49 U.S.C. § 10101(2).

4. Finally, in light of the impending expiration of the current abeyance period on December 15, 2005, NCC and NS respectfully request expedited Board action on this Petition.

¹ Timely and appropriate petitions will be submitted to the Board for the approval or exemption of the transactions contemplated by the parties' agreement, as required pursuant to 49 U.S.C. § 10901 and/or other applicable statutes and implementing regulations.

WHEREFORE, for good cause shown, NCC and NS respectfully request that the Board issue an order to continue to hold further proceedings in these dockets in abeyance until January 31, 2006.

Respectfully submitted,

NORFOLK SOUTHERN RAILWAY

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Dated: December 8, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December, 2005, I caused copies of the foregoing Joint Petition to Continue to Hold Proceedings in Abeyance to be served upon all parties of record in this proceeding by first class United States mail, postage prepaid.



Kendra A. Ericson