

BEFORE THE SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-1067 (Sub-No. 1X)

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IOWA NORTHWESTERN RAILROAD

ABANDONMENT EXEMPTION  
IN OSCEOLA AND DICKINSON COUNTIES, IOWA

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MOTION TO COMPEL

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Dated: March 13, 2006.

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Pursuant to 49 CFR § 1152.27(C), Iowa Central Railroad Co. (“IAC”) hereby respectfully moves for an Order compelling the Petitioner, Iowa Northwestern Railroad (“IANW”), to provide the information required by 49 U.S.C. §10904(b) and 49 CFR 1152.27(A), and requested in IAC’s Notice of Intent to File an Offer of Financial Assistance, filed February 9, 2006. In addition, IAC respectfully requests that all deadlines be tolled, as of the date of this Motion, until such order is complied with.

IANW filed its Petition for exemption to abandon a line of railroad in Osceola and Dickinson Counties, Iowa on or about December 27, 2005. The Petition sought authority only for 17.05 miles of the line, but IAC is informed and believes that IANW has ceased all service on the line between MP 79.34 (near Superior) and MP 116.55 (near Allendorf), a distance of about 37.21 miles. The only connection (with the Union Pacific Railroad) is at Superior. Thus, the portion of the line proposed for abandonment would, if acquired under the OFA, lack a connection to an operating railroad, and the customers would not have their service restored. IAC, therefore, proposes to acquire the entire line from Superior to Allendorf.

Since filing its Notice of Intent to File an Offer of Financial Assistance, IANW has provided

nothing, nor made any response whatsoever.

IAC, however, once again suggests that IANW does not qualify for the exemption sought, and that the Petition should be rejected. Further, even if Petitioner qualified for the exemption, IAC suggests that the Petition is materially false and/or misleading, and should be rejected for that fact alone. In that regard, IAC points out that the Petition fails to mention that IANW refused to provide requested service to a shipper during the two-year period preceding the filing; fails to mention that IANW is not operating the remainder of the line to Superior; and fails to mention that Union Pacific is refusing to interchange with IANW “due to lack of interchange facilities on IANW at Superior”<sup>1</sup>. The Petition also states in the Environmental Report (“Exhibit B”) that “the rail, ties and other track material will be removed from the right of way” and that that trackbed will “remain intact”. IAC is informed and believes that the rail, ties and other track material has already been removed from the portion of the right of way for which the exemption is being sought, in blatant disregard for 49 U.S.C. §10903, and that, in parts, the trackbed is no longer intact. Permitting this Petition to go forward makes a mockery of the Board’s authority and procedures.

In the event that the Petition is not rejected, however, IANW has an obligation to comply with 49 U.S.C. §10904(b), which provides that a carrier “shall provide promptly to a party considering an offer of financial assistance,” certain enumerated information. IAC respectfully submits that a failure to provide any response for more than thirty days is not prompt, and, in fact, is designed to further frustrate the Board’s procedures and the shippers’ rights.

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<sup>1</sup> Quote is from a Letter of Warren C. Wilson, Senior Director – Rail Line Planning, Union Pacific Railroad, to Daniel A. LaKemper dated February 21, 2006.

CONCLUSION

IAC respectfully requests that, in the event this Petition is not rejected, IANW be ordered to provide the information required by 49 U.S.C. §10904(b); that all deadlines in this proceeding be tolled from the date of this Motion, until IANW has provided the required information, and, in addition, that IANW be ordered to cease and desist from further scrapping of the line, and for such other and further relief as the Board deems appropriate.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument was served on March 13, 2006, by e-mail and by United States Mail, first class, postage fully pre-paid, upon all parties of record.



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