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228367



2 December 2010

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, D.C. 20024

FILING FEE WAIVED

Re: East Tennessee Railway - Exempt
Abandonment - in Washington and Carter
Counties, TN, AB-1031X
Request for Extension of NITU period -- fee exempt
Action requested prior to December 31, 2010

Dear Ms. Brown:

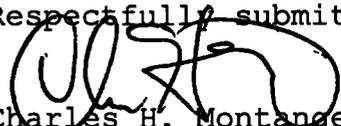
Enclosed for filing on behalf of City of Johnson City, Tennessee, please find the original and ten copies of a Motion for Extension of the NITU negotiation period in the above captioned proceeding. The existing negotiation period expires December 31, 2010. In order to avoid jurisdictional issues, City requests that the Board act on this request prior to that date.

49 C.F.R. 1002.2(f) provides for waiver of filing fees for an application which is filed by a local government entity. City of Johnson City is a local government entity. City of Johnson City thus qualifies for, requests, and claims exemption from, or waiver of, all filing fees that might otherwise be associated with the filing of this extension request.

By my signature below, I certify service of this letter and the associated motion by U.S. Mail, postage pre-paid, first class on this date on Mr. Hocky, counsel for East Tennessee Railway, at his address of record (courtesy copy by email provided to him on this date).

Thank you for your assistance in this matter.

Respectfully submitted,

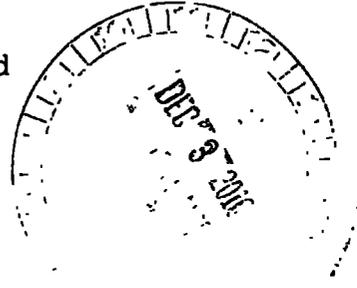

Charles H. Montange

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Encls.
cc. Eric Hocky (for ETR) (w/encl.)

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Before the Surface Transportation Board



East Tennessee Railway, L.P.)
- Exempt Abandonment -) STB Dkt. No.
in Washington and Carter) AB-1031X
Counties, TN)

Motion for Extension of Notice of Interim Trail
Use Negotiation Period
(Action Requested Prior to Dec. 31, 2010)

City of Johnson City ("City") moves for a 180 day extension in the negotiation period provided under the Notice of Interim Trail Use (NITU) served January 5, 2010, in this proceeding. This NITU was scheduled to expire on July 4, 2010, but was extended once through December 31, 2010. This is the second extension request. The NITU, if extended as requested, would expire on June 29, 2011.¹

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City is authorized to state that East Tennessee Railway ("ETRR"), per its counsel Mr. Hocky, consents to this extension.

Grounds for Extension

The parties have exchanged a draft contract, and are currently negotiating final terms. They expect to reach a final agreement, submit that agreement to the ETRY board and to the Johnson City Commission for approval, and then proceed in due course to closing. The parties believe this can be accomplished in the next six months.

¹ Of course, if the parties in fact enter into a final contract, then the NITU would extend indefinitely.

It is well established that a NITU extension is appropriate in such circumstances:

"An extension of the negotiation period will promote the establishment of trails and rail banking consistent with the national Trails System Act, 16 U.S.C., 1247(d) (Trails Act). The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-no. 13B) (ICC served Feb. 5, 1990)."

E.g., Wisconsin Central Ltd. - Abandonment Exemption - in Brown County, WI, AB 303 (Sub-no. 20X), served Oct. 10, 2006;

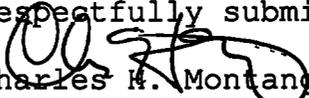
Consolidated Rail Corporation - Abandonment Exemption - in St. Joseph County, IN, AB 167 (Sub-no. 1165X), served Feb. 19, 1998.

Because the current NITU otherwise ends on December 31, 2010, Johnson City requests that the Board extend the NITU prior to that date in order to alleviate any jurisdictional issues.

Conclusion

For the reasons stated, the NITU negotiation period should be extended for 180 days, until June 29, 2011.

Respectfully submitted,


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