

Voting Conference, January 19, 2005

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Minnesota Commercial Railway Company–Adverse Discontinuance–In Ramsey County, MN  
STB Docket No. AB-882

MT Properties, Inc.–Adverse Abandonment–In Ramsey County, MN  
STB Docket No. AB-884

Good morning, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

The City of New Brighton, MN (the City) filed a petition for exemption and waiver regarding several statutory provisions and Board regulations pertaining to procedures for obtaining abandonment authority, in anticipation of filing an application for the adverse abandonment and discontinuance of service of a 0.5-mile portion of the Butcher Spur, owned by MT Properties, Inc., and operated by Minnesota Commercial Railway Company. The draft decision grants the petition in part, and denies it in part.

Although Minnesota Commercial Railway intends to oppose the application once it is filed, it does not oppose the City's requests for exemptions and waivers.

The City seeks exemption from the statutory provisions that require a rail carrier to post notices at each terminal and station on the line proposed to be abandoned within 30 days prior to filing the application, and certify that it has been done; and the statutory provisions that require rail carriers to maintain a system diagram map and identify on it rail lines planned for abandonment or discontinuance of service. Because compliance is not feasible for a third-party applicant, the draft decision grants these exemptions. The draft decision also grants the City's request for waiver of related and other regulatory requirements because compliance with those requirements is similarly not feasible by a third-party applicant.

The draft decision grants the waiver of the requirement that the City serve notice on labor organizations that represent employees on the line because the City does not have access to this information.

The draft decision denies a request for waiver of the requirement that the notice be filed on significant users of the line. The City's request for waiver from the requirement that it file a consummation notice would also be denied because the Board needs to know if and when a rail line is removed from our jurisdiction. However, because the City must invoke state law to obtain control of the property if the application is granted, the draft decision grants the City's request for waiver of the 1-year time limit on abandonment authority.

Finally, the City seeks exemption from the offer of financial assistance (or OFA) requirements of the statute, as well as waiver of related Board regulations. It argues that these provisions are not applicable because the line is needed for a commercial development project,

so an OFA would defeat the purpose of the adverse abandonment and discontinuance application. The draft decision reserves this issue for resolution in the final decision on the merits of any adverse application the City may file.

We would be happy to answer any questions you might have.