

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-490 (Sub-No. 1X)

GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION –
ABANDONMENT AND DISCONTINUANCE EXEMPTION – IN GREENVILLE
COUNTY, SC

Decided: March 27, 2006

By decision and notice of interim trail use or abandonment served on October 12, 2005, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by Greenville County Economic Development Corporation (GCEDC) of approximately 11.8 miles of rail line, extending from milepost 0.0 in Greenville, SC, to milepost 11.8 in Travelers Rest, SC (Northern Segment), and the discontinuance of service by GCEDC over 3.29 miles of rail line, extending from milepost AJK 585.34 in East Greenville, SC, to milepost AJK 588.63 in Greenville (Southern Segment), Greenville County, SC. The exemption was subject to environmental, public use, and trail use conditions, and was scheduled to become effective on November 11, 2005, unless an offer of financial assistance (OFA) was filed on or before October 24, 2005.

On October 3, 2005, Western Carolina Railway Service Corporation (WCRSC) timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the entire Northern Segment. In a decision served on October 27, 2005, the effective date of the exemption was postponed to permit the OFA process to proceed and November 16, 2005, was set as the due date for any request to establish the terms and conditions of the purchase of the Northern Segment. By decision served on November 15, 2005, at the joint request of WCRSC and GCEDC, the due date for a request to set terms and conditions was extended to February 14, 2006.

On February 14, 2006, WCRSC requested that we set the terms and conditions for the sale of the Northern Segment because the parties were unable to agree on the sale price. In a decision served on March 16, 2006 (March 16 decision), the Board set the purchase price for the line at \$738,000 and established terms for transfer of the line. WCRSC was given until March 27, 2006, to accept the terms and conditions. On March 27, 2006, WCRSC filed a petition to hold in abeyance the deadline for WCRSC to accept the terms and conditions established by the Board and to reconsider the March 16 decision.

WCRSC's request to hold this proceeding in abeyance will be denied because by statute the Board's decision setting the purchase price is binding on both parties, unless the offer is withdrawn by the offeror within 10 days of the Board's decision. See 49 U.S.C. 10904(f)(2). The Board has no authority to extend that deadline. See Southern Pacific Transportation

Company – Abandonment Exemption – Sacramento and El Dorado Counties, CA, Docket No. AB-12 (Sub-No. 159X) (ICC served Oct. 20, 1994). Accordingly, WCRSC has only until 11:59 p.m. March 27, 2006, to notify the Board of its intent to accept or reject the terms and conditions set out in the March 16 decision.

Also, the Board will not entertain WCRSC's request for reconsideration of the March 16 decision. As noted above, there are strict statutory deadlines associated with the OFA process and because of these deadlines, reconsideration would be inappropriate at this time. Moreover, the evidence provided by WCRSC in its reconsideration request is not new and could have and should have been provided in its request to set terms and conditions. Finally, the appeal raises no issues that were not previously addressed by the Board in the March 16 decision.

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

It is ordered:

1. WCRSC's requests for reconsideration and to hold this proceeding in abeyance are denied.
2. WCRSC has until 11:59 p.m. to file its notice of intent to accept or reject the Board's terms and conditions as set out in the March 16, 2006 decision.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary