

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1272X

CENTRAL TEXAS & COLORADO RIVER RAILWAY, LLC—ABANDONMENT
EXEMPTION—IN MCCULLOCH, SAN SABA, MILLS, AND LAMPASAS COUNTIES,
TEX.

Decided: February 14, 2020

By petition filed on August 9, 2019, Central Texas & Colorado River Railway, LLC (CTXR), a Class III rail carrier, filed with the Board a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon a railroad line covering approximately 67.5 miles of track in McCulloch, San Saba, Mills, and Lampasas Counties, Tex. (the Line), which constitutes CTXR's entire railroad system. Notice of CTXR's petition was served and published in the Federal Register on August 29, 2019 (84 Fed. Reg. 45,618).

CTXR states that it acquired the Line in 2016. See Central Tex. & Colo. River Ry.—Acquis. & Operation Exemption—Line of Heart of Tex. R.R., FD 36018 (STB served July 14, 2016). According to CTXR, the Line was embargoed as of July 25, 2019, due to bridge problems and unsafe track conditions, and has become a burden to CTXR and interstate commerce. (CTXR Pet. 2.)

On September 9, 2019, in response to CTXR's petition, the Brady Line Shipper Group (Shipper Group), an association of active users of the rail service provided by CTXR,¹ and the North Central Railcorp, Inc., a noncarrier, filed formal expressions of intent to file offers of financial assistance. Both entities were deemed to be preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(1)(ii).

On October 25, 2019, CTXR requested that the Board hold the abandonment proceeding in abeyance for 90 days. (CTXR Request 1.) CTXR stated that it has been engaged in negotiations with multiple parties for the sale of the Line and that negotiations have advanced to the point that CTXR believed its resources are best spent attempting to secure a private sale of the Line. (*Id.*) The request for abeyance was approved on November 5, 2019, and CTXR was ordered to file a status report by January 23, 2020.

¹ The members of the Shipper Group are The J.C. Smith Co., P.W. Gillibrand Co. of Texas Inc., and Jacoby and Jacoby, Inc. (Shipper Group Notice of Intent 1.)

On January 22, 2020, the Shipper Group filed a letter opposing any additional abeyance of the proceeding. It contends that CTXR's continued embargo will have a serious adverse impact on its members. (Shipper Group Reply 1, Jan. 22, 2020.) On January 23, 2020, CTXR submitted a status report and requested that the Board continue to hold this proceeding in abeyance for an indeterminate period, subject to subsequent updates. (CTXR Status Report 1.) CTXR states that negotiations concerning the Line are actively progressing and that CTXR is pursuing terms that would allow it to withdraw its abandonment petition. (Id.) CTXR states that the negotiations are governed by the terms of a non-disclosure agreement that bar it from revealing the entity (or entities) with which it is engaged or the terms that the parties have exchanged and are developing. (Id.) On January 24, 2020, the Shipper Group opposed CTXR's request for further abeyance, noting that CTXR did not mention in its status report the embargo of the Line or the substantial harm the embargo is causing members of the Shipper Group. (Shipper Group Reply 1, Jan. 24, 2020.)

Given the facts and circumstances, CTXR's request to continue to hold this proceeding in abeyance will be granted, in part. Because it appears that CTXR's negotiations to privately sell the Line are actively progressing, the Board will grant an extension of the abeyance period. However, in light of the ongoing embargo and the concerns raised by the Shipper Group, the further abeyance will be limited to 60 days, after which CTXR will be directed to file a further status report describing in detail the progress of negotiations in the intervening period.

It is ordered:

1. This proceeding is held in abeyance until April 14, 2020. CTXR shall file a status report by April 14, 2020, with the information requested by the Board as described in this decision.
2. The environmental assessment period is stayed until further Board order.
3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.