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SERVICE DATE – NOVEMBER 17, 2020

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1307X

YORK RAILWAY COMPANY—DISCONTINUANCE EXEMPTION—IN YORK COUNTY,
PA.

Docket No. AB 1308X¹

YORKRAIL, LLC—ABANDONMENT EXEMPTION—IN YORK COUNTY, PA.

[REQUEST FOR WAIVER OF 49 C.F.R. §§ 1105.7(b) and 1105.8(c)]

Digest:² This decision grants a request for waiver of the 20-day advance notice requirement for environmental and historic reports.

Decided: November 16, 2020

On November 2, 2020, Yorkrail, LLC (Yorkrail) and York Railway Company (YRC) (collectively, Applicants) jointly filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service for Yorkrail to abandon, and YRC to discontinue service over,³ approximately 8.59 miles of rail line extending: (1) between approximately milepost 20.07, in the Village of Bair, Pa., in West Manchester Township, and approximately milepost 23.3, in the Borough of Spring Grove, Pa., in Jackson Township; and (2) between approximately milepost 24.10, near Spring Grove, and approximately milepost 29.46, near Hanover, Pa., in Heidelberg Township (the Line). The verified notice states that “YRC owns all of the common carrier operating rights with respect to [the Line], while Yorkrail

¹ These proceedings are not consolidated. A single decision is being issued for administrative purposes.

² The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

³ The joint verified notice was initially submitted indicating that both entities were seeking abandonment authority. By letter dated November 13, 2020, Applicants, noting that YRC has operating rights while Yorkrail owns the rail assets, requested that the Board caption the proceeding as a discontinuance and abandonment exemption to the extent that was more appropriate.

is a carrier by virtue of its ownership of the underlying rail assets comprising [the Line].”⁴
(Verified Notice 2.)

Concurrently with the verified notice, Applicants filed a combined environmental and historic report as required under 49 C.F.R. §§ 1105.7(a) and 1105.8(a). In the combined report, Applicants certify that, on October 7, 2020, they served consultation letters on the appropriate agencies and parties listed in 49 C.F.R. § 1105.7(b). Applicants, however, ask the Board to waive the requirement at 49 C.F.R. §§ 1105.7(b) and 1105.8(c) that would require the combined report to be served on the various agencies and parties at least 20 days before filing their joint verified notice. Applicants explain that they intend to sell the Line to York County Rail Trail Authority (YCRTA), a political subdivision of York County, for the purposes of trail use. (Verified Notice 5.) Applicants state that, to that end, YCRTA has received a local grant of \$50,000 and anticipates a state grant of \$300,000 to be awarded shortly but that these grants and any subsequent awards are based upon YCRTA having “control of the land.” (*Id.*) Applicants argue that, given current uncertainties in state and local funding, it is important that YCRTA receives the funds in 2020, and they therefore request waiver of the 20-day advance service requirement in order to complete the transaction before the end of the year. (*Id.* at 5-6.) No opposition to this waiver request has been filed.

Under the specific circumstances here, the Board finds that a waiver of the 20-day provision is warranted and will, therefore, grant the requested waiver of the 20-day advance notice period.

It is ordered:

1. Applicants’ request for waiver is granted.
2. This decision is effective on its date of service.

By the Board, Board Members Begeman, Fuchs, and Oberman.

⁴ See Md. & Pa. R.R. & Yorkrail, Inc.—Intracorporate Family Transaction Exemption, FD 33815 (STB served Dec. 13, 1999). According to Applicants, Genesee & Wyoming, Inc., gained control of the Applicants in 2002. See Genesee & Wyo. Inc.—Control Exemption—ETR Acquis. Corp., FD 34148 (STB served Feb. 28, 2002).