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March 10, 2021

ENTERED
Office of Proceedings
March 10, 2021
Part of
Public Record

Ms. Cynthia Brown
Secretary, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: Metro-North Commuter Railroad Company—Adverse Discontinuance of Trackage Rights—Housatonic Railroad Company, STB Docket No. AB-1311

Dear Ms. Brown:

On February 8, 2021, Metro-North Commuter Railroad Company (“Metro-North” or “Applicant”) filed a Petition for Partial Waivers (“Petition”) in the above-captioned matter, including a request for a waiver of some of the requirements associated with the Notice of Intent, required under 49 C.F.R. § 1152.20. The Surface Transportation Board (“STB” or “Board”) has not yet issued a decision on Metro-North’s Petition.

As indicated in the Petition, Metro-North intends to file an application for adverse discontinuance on or about March 29, 2021. Consistent with that date, Metro-North has provided the parties set forth in 49 C.F.R. § 1105.7 with the requisite Environmental and Historic Reports. Metro-North has also provided the parties set forth in 49 C.F.R. § 1152.20 with the draft Notice of Intent provided to the Board in the Petition. As the Board is listed as a recipient of the Notice of Intent in section 1152.20, Metro-North hereby provides the Board with this Notice.

Metro-North gives notice that on or about March 29, 2021, it intends to file with the Surface Transportation Board, Washington, DC 20423, an application seeking adverse discontinuance of the authority of Housatonic Railroad Company (“HRC”) to operate over a line of railroad known as the Beacon Line (the “Line”) extending from railroad milepost 0.0 in Beacon, New York to milepost 71.2 at the Connecticut/New York state line, which traverses through United States Postal Service Zip Codes 12508, 12524, 12533, 12582, 12570, 12531, 12563, 10509, and 06811, a distance of approximately 41 miles in Putnam and Dutchess Counties, New York.

The reason for the proposed discontinuance is the lack of need for rail service on the Line and the potential for other, non-rail use of the property. There are no documents in Applicant’s possession that indicate that the Line contains federally granted rights-of-way. If the Applicant becomes aware of the existence of any such documentation, it will be made available to those requesting it.

The application for adverse discontinuance can be viewed following its filing on the Surface Transportation Board's website at www.stb.gov, or a copy can be obtained from Applicant's counsel whose name and address appears below. The application will include Applicant's entire case for discontinuance. Any interested person, after the application is filed on or about March 29, 2021, may file with the Surface Transportation Board its protest of, or written comments concerning, the proposed discontinuance identifying it by the proceeding's docket number. These filings are due 45 days from the date of filing of the application. All interested persons should be aware that following any discontinuance of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use. Persons who may oppose the discontinuance, but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses containing detailed evidence, should file comments.

Persons opposing the proposed discontinuance that do wish to participate actively and fully in the process should file a protest. Protests must contain that party's entire case in opposition including the following: (1) the protestant's name, address and business; (2) the protestant's interest in the proceeding, including their use of the Line or the public interest represented, if the protestant's interest is limited to the retention of service over a portion of the Line, a description of the portion of the Line subject to the protestant's interest (with milepost designations if available) and evidence showing that the applicant can operate the portion of the Line profitably, including an appropriate return on its investment for those operations; (3) specific reasons why protestant opposes the application including information regarding protestant's reliance on the involved service [this information must be supported by affidavits of persons with personal knowledge of the fact(s)]; and (4) any rebuttal of material submitted by applicant. In addition, a commenting party or protestant may provide a statement of position and evidence regarding (i) environmental impact; (ii) impact on rural and community development; (iii) recommended provisions for the protection of the interests of employees; (iv) suitability of the properties for other public purposes pursuant to 49 U.S.C. § 10905; and (vi) prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. § 1247(d) and § 1152.59. If an oral hearing is desired the requester must make a request for an oral hearing and provide reasons why an oral hearing is necessary.

Oral hearing requests must be filed with the Board no later than 10 days after the application is filed.

Written comments and protests, including all request for public use and trail use conditions, should indicate the proceeding designation STB No. AB 1311 and must be filed with the Office of Proceedings, Surface Transportation Board, Washington, DC 20423-0001, no later than April 15, 2021.

Interested persons may file a written comment or protest with the Board to become a party to this discontinuance proceeding. A copy of each written comment or protest shall be served

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upon Applicant's counsel in this matter, Charles A. Spitulnik, Kaplan, Kirsch and Rockwell, 1634 I (Eye) Street, NW, Suite 300, Washington, DC 20006, phone (202) 955-5600; email cspitulnik@kaplankirsch.com. The original and 10 copies of all comments and protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, each document filed with the Board must be served on all parties to the discontinuance proceeding.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Office of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Office of Environmental Analysis. EAs in this discontinuance proceeding normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Yours Truly,



Charles A. Spitulnik

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March, 2021, I caused the foregoing Notice of Intent to be served by certified mail on the following recipients:

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Laurel McClean
U.S. Dept. of Agriculture
Chief of Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250-0003

Railroad Retirement Board
William O. Lipinski Federal Building
844 North Rush Street
Chicago, IL 60611-1275

Railroad Retirement Board
Leo O'Brien Federal Bldg.
11A Clinton Ave., Suite 264
Albany, NY 12207-2382

Bob Ratcliffe
Program Chief
Conservation and Outdoor Recreation
Division Office
National Park Service
1849 C Street NW
Washington, DC 20240

Peter Matthews
Surface Deployment and Distribution
Command
Engineering Agency
Railroads for National Defense Program
1 Soldier Way, Bldg 1900W
Scott AFB, IL 62225

Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

Marie Therese Dominguez, Esq.
Commissioner
Department of Transportation
New York State
50 Wolf Road
Albany, NY 12232

CCE Putnam County
Terravest Corporate Park
1 Geneva Road
Brewster, NY 10509

CCE Dutchess County
2715 Route 44
Millbrook, NY 12545

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The following recipients were served by certified mail on this 10th day of March, 2021:

Edward J. Rodriguez
Vice President and General Counsel
Housatonic Railroad Company
4 Huntley Road
P.O. Box 687
Old Lyme, Connecticut 06371-1448

Dick Welsh
National Association of Reversionary
Property Owners
1100 Bellevue Way NE Ste.8A PMB 719
Bellevue, Washington 98004



Charles A. Spitulnik