

SERVICE DATE – MAY 19, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36612

REVOLUTION RAIL HOLDING COMPANY, LLC
—ACQUISITION EXEMPTION—
SARATOGA AND NORTH CREEK RAILWAY, LLC

Decided: May 19, 2022

On April 20, 2022, Revolution Rail Holding Company, LLC (RRHC), a noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Saratoga and North Creek Railroad (SNCR) approximately 29.71 miles of rail line between milepost NC 0.0 at North Creek, N.Y., and its terminus at milepost NC 29.71 near the former Tahawus Mine, as well as approximately 2.97 miles of passing tracks and siding (the Line).¹

RRHC's verified notice states that on September 10, 2018, an application was filed by the New York State Department of Environmental Conservation (the Department) in Docket No. AB 1261 for "adverse" abandonment of the Line under 49 U.S.C. § 10903. (Verified Notice 2); see N.Y. State Dep't of Env't Conservation—Adverse Aban.—Saratoga & N. Creek Ry. in Town of Johnsbury, N.Y., AB 1261 (STB served June 21, 2021). The verified notice also notes that, on March 30, 2020, William A. Brandt, as Chapter 11 trustee for SNCR (the Trustee) filed a voluntary petition for bankruptcy in federal court. (Verified Notice 3); see In re Saratoga & N. Creek Ry., Case No. 20-12313-TBM (Bankr. D. Colo.).

RRHC's verified notice states that a bankruptcy auction was held on March 3, 2022, in which RRHC participated along with other bidders. (Verified Notice 4.) According to RRHC, it was notified on April 4, 2022, that it was the successful bidder and it subsequently entered into an Amended Asset Purchase Agreement (the Agreement) with the Plan Administrator to purchase SNCR's right, title and interest in and to its assets, including the Line. (See id. at 5, 8-9, Ex. B, Ex. C.) RRHC states that it has plans to reactivate rail service on the Line and that certain shippers have expressed interest in receiving freight rail service. (Id. at 7-8.) RRHC further states that it has approached SMS Rail Service, Inc. (SMS), a Class III rail carrier, about the possibility of SMS providing freight rail service on the Line, and that SMS has agreed. (Id.) RRHC states, however, that, in the event the Department's adverse abandonment application is

¹ RRHC initially filed a verified notice of exemption to acquire the Line on August 11, 2021, in Revolution Rail Holding Co.—Acquisition Exemption—Saratoga & North Creek Railway, Docket No. FD 36535. That notice of exemption, however, was rejected for several reasons. See Revolution Rail Holding, FD 36535 (STB served Sept. 10, 2021).

granted, it would enter into a trail use agreement for the Line under the National Trails System Act (Trails Act). (Id. at 8.)

On May 13, 2022, the Department filed a response to RRHC's verified notice and requests a housekeeping stay of the exemption's effective date. The Department argues, among other things, that it is finalizing a railcar storage agreement with RRHC that would lead to the withdrawal of the Department's adverse abandonment application in Docket No. AB 1261 and thus an "amicable resolution" of that case. (NY Dep't Response 2, 4.) RRHC has not objected, or otherwise responded, to the Department's request, but its verified notice of exemption confirms that it has been in discussions with the Department. (Verified Notice 3 n.1.)

In light of the interrelationship between RRHC's acquisition exemption and the pending adverse abandonment in Docket No. AB 1261, and the ongoing negotiations between the Department and RRHC, the effective date of the exemption will be postponed until further order of the Board. The Department and RRHC will be directed to file (jointly, if possible) a status report by June 21, 2022, and promptly notify the Board if an agreement is finalized before that date.

It is ordered:

1. The effective date of this exemption is postponed pending further Board order.
2. The Department and RRHC shall file (jointly, if possible) a status report by June 21, 2022, and shall promptly notify the Board if an agreement is finalized before that date.
3. This decision is effective on its service date.

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