

SERVICE DATE — AUGUST 2, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1311

METRO-NORTH COMMUTER RAILROAD COMPANY—ADVERSE DISCONTINUANCE
OF TRACKAGE RIGHTS—HOUSATONIC RAILROAD COMPANY

Decided: August 2, 2022

On June 7, 2021, Metro-North Commuter Railroad Company (Metro-North) filed an application under 49 U.S.C. § 10903 requesting that the Board authorize the third-party, or “adverse,” discontinuance of operating authority held by Housatonic Railroad Company (Housatonic) over a 41.1-mile rail line owned by Metro-North, extending between milepost 0.0 at Beacon, N.Y., and milepost 71.2 at the Connecticut/New York state line, in Dutchess and Putnam Counties, N.Y. (the Line).¹ Notice of the application was served and published in the Federal Register (86 Fed. Reg. 33,806) on June 25, 2021.

On June 9, 2021, Metro-North filed a motion for protective conditions pursuant to 49 C.F.R. § 1114.21(c) to request that the Board excuse Metro-North from responding to certain interrogatories it received from Housatonic on May 13, 2021. (Metro-N. Mot. 2, 4, June 9, 2021.) On June 29, 2021, Housatonic replied to Metro-North’s motion, asserting that the information sought is relevant to the argument it plans to present. (Housatonic Reply 6, June 29, 2021.) However, noting Metro-North’s concerns, Housatonic agreed that certain of the information requested need not be provided and attached revised interrogatories to its reply. (Id. at 7, Ex. A.) Housatonic also requested that it be permitted to depose Metro-North’s vice president of engineering. (Id. at 8.)

In light of the discovery dispute, the proceeding was held in abeyance by decision served on July 16, 2021. On August 12, 2021, the Board removed the proceeding from abeyance for the limited purpose of addressing discovery matters and assigned Administrative Law Judge Thomas McCarthy to handle all discovery matters and initially resolve all discovery disputes.

A procedural schedule proposed by the parties was adopted on April 21, 2022,² and the discovery dispute was later resolved. As such, the proceeding is fully removed from abeyance.

¹ Metro-North initially submitted its application on April 30, 2021, but provided supplemental information to correct its initial submission on June 7, 2021, which therefore is considered the filing date of the application.

² Pursuant to this schedule, Housatonic filed a reply to Metro-North’s application on July 14, 2022, and Metro-North filed a reply on July 25, 2022.

The Board's Office of Environmental Analysis will soon be issuing a Draft Environmental Assessment examining the environmental impacts of granting Metro-North's application.

It is ordered:

1. This proceeding is removed from abeyance.
2. This decision is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.