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SERVICE DATE – NOVEMBER 15, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 183 (Sub-No. 5X)

UNION RAILROAD COMPANY, LLC—ABANDONMENT EXEMPTION—
IN THE CITY OF MCKEESPORT, ALLEGHENY COUNTY, PA.

Decided: November 15, 2022

On May 3, 2021, Union Railroad Company, LLC (URR) filed a verified notice of exemption under 49 C.F.R. part 1152, subpart F—Exempt Abandonments to abandon approximately 5.4 miles of switching and terminal trackage known as the MCR Track in the City of McKeesport in Allegheny County, Pa. (the Line). The notice of exemption was served and published in the Federal Register on May 21, 2021 (86 Fed. Reg. 27,666). The exemption became effective on June 20, 2021. The Board’s May 21, 2021 notice stated that if consummation had not been effected by URR’s filing of a notice of consummation by May 21, 2022, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

On December 30, 2021, URR sold the Line to adjacent shipper DB Pipe, LLC, intending the sale to be that of private industry track following the Line’s abandonment. However, URR failed to file a notice of consummation of abandonment prior to that sale (or anytime prior to the May 21, 2022 deadline).

On September 26, 2022, URR filed a notice of consummation attached to a petition asking the Board to partially waive the consummation notice requirement and accept its notice as timely filed. URR says that it consummated its abandonment on December 30, 2021 (Pet. 2), but inadvertently failed to timely file notice with the Board or seek an extension of the consummation deadline due to complexities arising from implementation of the July 2021 sale of URR’s direct parent company, Transtar, LLC (Transtar), to United States Steel Corporation (U.S. Steel) and Transtar’s hiring of a new chief legal officer, (Pet. 2-3).

The Director of the Office of Proceedings has “authority initially” to “waive the regulations at 49 CFR part 1152, subpart C, on appropriate petition.” 49 C.F.R. § 1011.7(a)(2)(xiv). And under 49 C.F.R. § 1152.29(e)(2), a railroad may request an extension of time to file a notice of consummation upon a showing of good cause. In cases where unique circumstances caused notice of consummation deadlines to be missed, the Board has used its authority to both retroactively extend the notice of consummation filing deadline, see, e.g., BNSF Ry.—Aban. Exemption—in Pawnee Cnty., Okla., AB 6 (Sub-No. 498X) (STB served June 12, 2020), and accept a late-filed notice as timely, see, e.g., La. & Delta R.R.—Aban. Exemption—in Terrebonne Parish, La., AB 318 (Sub-No. 3X) (STB served Sept. 3, 1998).

Here, URR has adequately justified its delay by demonstrating how the complexities arising from U.S. Steel's acquisition of Transtar caused URR to inadvertently miss the deadline. Namely, incorporating Transtar's operations into U.S. Steel involved many intricate steps and was more difficult and took longer than initially planned. (Pet. 2.) URR has therefore shown good cause for the Board to waive the consummation notice requirement. Accordingly, URR's request will be granted, and its notice of consummation will be accepted as having been timely filed.

It is ordered:

1. URR's petition for partial waiver of the consummation notice requirement in this proceeding is granted.
2. URR's notice of consummation is accepted as having been timely filed.
3. This decision is effective on its service date.

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