

51600

SERVICE DATE – FEBRUARY 17, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 733 (Sub-No. 1X)]

Housatonic Railroad Company, Inc.—Discontinuance of Service—Dutchess and Putnam Counties, N.Y.

Housatonic Railroad Company, Inc. (HRRC), has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue trackage rights over the rail line known as the Beacon Line located between milepost 0.0 at Beacon, N.Y., and milepost 71.2¹ at the Connecticut/New York state line, for a total distance of 41.1 miles, in Dutchess and Putnam Counties, N.Y. (the Line).² The Line traverses U.S. Postal Service Zip Codes 12508, 12524, 12533, 12582, 12570, 12531, 12563, 10509, and 12564.

HRRC has certified that: (1) it has moved no local traffic over the Line for at least two years; (2) any common carrier overhead traffic can be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the Line is either

¹ The connecting branches that form the Line also retain their original milepost designations used by the former New York Central and New York, New Haven & Hartford, which are milepost 12.8 and milepost 42.9.

² The Line is owned by Metro-North Commuter Railroad Company (Metro-North). When the Board's predecessor, the Interstate Commerce Commission, authorized Metro-North's acquisition of the Line in 1995, it exempted Metro-North from most of the provisions of Subtitle IV of Title 49 of the U.S. Code. (Verified Notice 2-3.)

pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication) and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)³ to subsidize continued rail service has been received, this exemption will be effective on March 19, 2023, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues⁴ and formal expressions of intent to file an OFA to

³ Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

⁴ Typically, a discontinuance does not require environmental review because the environmental review will occur during any later abandonment. However, in certain situations where the owner of a rail line proposed for discontinuance does not require Board approval to abandon the line, a discontinuance may require environmental review. See 49 C.F.R. § 1105.6(b)(3). On September 9, 2022, the Board's Office of Environmental Analysis (OEA) issued a Final Environmental Assessment (Final EA) covering the Line in a related proceeding: Metro-North Commuter Railroad—Adverse Discontinuance of Trackage Rights—Housatonic Railroad, Docket No. AB 1311. No environmental or historic preservation issues were raised by any party or identified by OEA in that Final EA. Accordingly, because OEA has recently conducted an appropriate environmental review concerning the Line at issue, a finding of no significant impact under 49 C.F.R. § 1105.10(g) will be made pursuant to 49 C.F.R. § 1011.7(a)(2)(ix).

subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)⁵ must be filed by February 27, 2023.⁶ Petitions to reopen must be filed by March 9, 2023.

All pleadings, referring to Docket No. AB 733 (Sub-No. 1X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading filed with the Board must be sent to HRRC's representative, Edward J. Rodriguez, Housatonic Railroad Company, Inc., 4 Huntley Road, P.O. Box 687, Old Lyme, CT 06371.

If the verified notice contains false or misleading information, the exemption is void ab initio.

This action will not significantly impact the quality of the human environment or the conservation of energy resources.

Board decisions and notices are available at www.stb.gov.

Decided: February 14, 2023.

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

⁵ The filing fee for OFAs can be found at 49 C.F.R. § 1002.2(f)(25).

⁶ Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate in this docket. However, the Board has granted in the past a petition for partial revocation of a 49 U.S.C. Subtitle IV exemption to permit the owner a line to seek abandonment authority in order to pursue interim trail use/rail banking. See Caldwell R.R. Comm'n—Exemption from 49 U.S.C. Subtitle IV, FD 32659 (Sub-No. 2) (STB served Sept. 8, 2015).