

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1066 (Sub-No. 3X)]

City of Peoria, Ill.—Discontinuance of Service Exemption—in Peoria County, Ill.

On February 15, 2023, the City of Peoria, Ill. (the City), filed with the Board a petition under 49 U.S.C. § 10502 for an exemption from the prior approval requirements of 49 U.S.C. § 10903 “permitting the City, on behalf of the no longer extant Central Illinois Railroad Company (‘CIRY’),” to discontinue common carrier rail service over an approximately 1.1-mile portion of a railroad line known as the Kellar Branch, extending between mileposts 1.71 and 2.78 (the Line), located in the City. The Line traverses U.S. Postal Service Zip Code 61603.

The City states that it purchased the Kellar Branch from the trustee of the Chicago, Rock Island & Pacific Railroad Company in 1984 after the trustee secured authority to abandon it in 1980.¹ The City explains that CIRY was authorized to operate over the Kellar Branch in Central Illinois Railroad—Operation Exemption—Rail Line of the City of Peoria & the Village of Peoria Heights in Peoria & Peoria Heights, Peoria County, Ill., FD 34518, et al. (STB served July 28, 2004). According to the City, CIRY ceased operations in 2010 and was involuntarily dissolved in 2011. In addition, the City

¹ The Board has found that the Kellar Branch was fully abandoned when the City acquired it. Pioneer Indus. Ry.—Discontinuance of Serv. Exemption—Line in Peoria Cnty., Ill., AB 1066 (Sub-No. 1X) et al., slip op at 5 (STB served Apr. 16, 2010); Cty. of Peoria—Adverse Discontinuance—Pioneer Indus. Ry., ABA 878, slip op. at 1 (STB served Nov. 19, 2007).

asserts that CIRY's prior owners cannot be located and CIRY has failed to abide by its operating, maintenance, and other responsibilities under its prior operating lease with the City, which has been terminated.

The City states that the only customer on the Line, O'Brien Steel Service Co. (O'Brien Steel), has been without rail service since 2010 following the cessation of CIRY's operations.² The City explains that, after discontinuance, it intends to transfer approximately 550 feet of right-of-way and track located at the south end of the Line to O'Brien Steel, which plans to use the track as a private industrial spur to connect to the Tazewell & Peoria Railroad.³ The City attached to its petition a letter from O'Brien Steel supporting the City's petition.

The City states that, based on information in its possession, the Line does not contain any federally granted rights-of-way and that any documentation in its possession will be made available to those requesting it.

² According to the City, Pioneer Industrial Railway (PIRY) obtained non-exclusive local trackage rights over the Line in 2010, see Pioneer Indus. Ry. Co.—Trackage Rights Exemption—Central Illinois R.R., FD 35341 (STB served. Jan. 14, 2010), but has not used them since CIRY's dissolution in 2011. PIRY recently filed a verified notice of exemption for discontinuance of those trackage rights. (Notice, Feb. 13, 2023, Pioneer Indus. Ry.—Discontinuance of Trackage Rts. Exemption—in Peoria Cnty., Ill., AB 1056 (Sub-No. 1X).)

³ The City asserts that under Common Carrier Status of States, State Agencies & Instrumentalities & Political Subdivisions, 363 I.C.C. 132 (1980), abandonment authority is not necessary here because the Line was previously authorized for abandonment and the City has never held itself out as a common carrier.

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).

Because the Line has already been abandoned, trail use/rail banking and public use conditions are not appropriate, and no environmental review is necessary.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b).

A final decision will be issued by June 5, 2023. Any offer of financial assistance (OFA) under 49 C.F.R. § 1152.27(b)(2) to subsidize continued rail service will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.⁴ The filing fee for OFAs can be found at 49 C.F.R. § 1002.2(f)(25).

Any interested party may file a response to this notice. All pleadings, referring to Docket No. AB 1066 (Sub-No. 3X), 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 must be served on the City's representative, Peter A. Pfohl, Slover & Loftus LLP, 1224 17th Street N.W., Washington, DC 20036. Replies to the petition are due on or before March 27, 2023.

⁴ The City has requested an exemption from the OFA procedures at 49 U.S.C. § 10904 and waiver of the related Board regulations at 49 C.F.R. § 1152.27.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0294. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

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

Decided: March 2, 2023.

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