

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1311 (Sub-No. 1X)]

Metro-North Commuter Railroad Company—Abandonment Exemption—in Dutchess and Putnam Counties, N.Y.

Metro-North Commuter Railroad Company (MNR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon an approximately 41.1-mile rail line that runs between milepost 0.0 and milepost 71.2, in Dutchess and Putnam Counties, N.Y. (the Line).¹ The Line traverses U.S. Postal Service Zip Codes 12508, 12524, 12533, 12582, 12570, 12531, 12563, 10509, and 12564.

MNR has certified that: (1) no local freight or overhead traffic has moved over the Line during the past two years; (2) no formal complaint filed by a user of rail service on the Line (or by a state or local government on behalf of such user) regarding cessation

¹ When the Interstate Commerce Commission, the Board's predecessor, authorized MNR to acquire the Line in 1995, it exempted MNR from most of the provisions of Subtitle IV of Title 49 of the U.S. Code and authorized MNR to abandon the Line subject to the future discontinuance of trackage rights then held by Danbury Terminal Railroad Company. Metro-N. Commuter R.R.—Exemption—from 49 U.S.C. Subtitle IV., FD 32639 (Sub-No. 1), slip op. at 1 (STB served Nov. 22, 2023). See also Metro-N. Commuter R.R.—Acquis. Exemption—the Maybrook Line, FD 32639 et al., slip op. at 3-4 (ICC served Jan. 13, 1995). MNR filed a petition seeking partial revocation of the Subtitle IV exemption to permit MNR to file for abandonment authority and ultimately pursue interim trail use/railbanking of a rail line under the National Trails System Act (Trails Act), 16 U.S.C. 1247(d), and 49 CFR 1152.29. Metro-N. Commuter R.R., FD 36239 (Sub-No. 1), slip op. at 1 (STB served Nov. 22, 2023). The Board granted that petition on November 22, 2023. Id.

of service over the Line is pending with either the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (3) the requirements at 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment 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) has been received,² this exemption will be effective on February 9, 2024, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues³ must be filed by January 19, 2024. Formal expressions of intent to file an OFA

² Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

³ Typically, an abandonment requires environmental review. However, 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. MNR states that no significant changes affecting the Line have taken place since the Final EA was issued. Accordingly, because OEA has recently conducted an appropriate environmental review concerning the Line at issue, a finding of no significant impact under 49 CFR 1105.10(g) will be made pursuant to 49 CFR 1011.7(a)(2)(ix). See Housatonic R.R.—Discontinuance of Serv.—in Dutchess & Putnam Cntys., N.Y., AB 733 (Sub-no. 1X) et al., slip op. at 4 n.10 (STB served July 13, 2023).

under 49 CFR 1152.27(c)(2) and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 22, 2024.⁴ Petitions to reopen and requests for public use conditions under 49 CFR 1152.28 must be filed by January 30, 2024.

All pleadings, referring to Docket No. AB 1311 (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 must be served on MNR's representative, Charles A. Spitulnik, Kaplan, Kirsch & Rockwell, LLP, 1634 I (Eye) Street NW, Suite 300, Washington, DC 20006.

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

Public use or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), MNR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by MNR's filing of a notice of consummation by January 10, 2025, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: January 5, 2024.

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

⁴ Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.