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SERVICE DATE – OCTOBER 2, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 812X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN CUYAHOGA
COUNTY, OHIO

Decided: October 2, 2024

On August 14, 2023, CSX Transportation, Inc. (CSXT), a Class I rail carrier, filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51 on its Cleveland Subdivision in Cuyahoga County, Ohio (the Line). Notice of the exemption was served and published in the Federal Register on September 1, 2023 (88 Fed. Reg. 60,526). The exemption became effective on October 1, 2023.

On September 5, 2024, in Norfolk Southern Railway—Discontinuance of Trackage Rights Exemption—in Cuyahoga County, Ohio, Docket No. AB 290 (Sub-No. 553X), Norfolk Southern Railway Company (NSR) filed a verified notice of exemption—also under 49 C.F.R. part 1152 subpart F—to discontinue trackage rights over the Line. Notice of the exemption was served and published in the Federal Register on September 25, 2024 (89 Fed. Reg. 78,426). The exemption is scheduled to become effective on October 25, 2024.

On September 6, 2024, CSXT filed a letter in this docket requesting an extension of the deadline to consummate its abandonment. CSXT states that NSR's trackage rights constitute a barrier to consummation and that it is filing the extension request out of an abundance of caution. (CSXT Letter 1.) CSXT requests that the Board extend CSXT's deadline to consummate until 60 days after NSR's discontinuance authority in Docket No. AB 290 (Sub-No. 553X) is granted. (Id.)

The Board's regulations provide that, if a rail carrier intends to consummate abandonment authority it has received, it must file a consummation notice with the Board within one year of the service date of the decision authorizing the abandonment unless there is a legal or regulatory barrier to consummation at the end of that one-year period. 49 C.F.R. § 1152.29(e)(2). If, however, a legal or regulatory barrier to consummation exists at the end of the one-year period, the notice of consummation must be filed not later than 60 days after satisfaction, expiration, or removal of the barrier. Id.

Although CSXT did not disclose the existence of NSR's trackage rights in its verified notice of exemption, CSXT is correct that NSR's trackage rights constitute a regulatory barrier to

consummation. See CSX Transp., Inc.—Aban. Exemption—in Raleigh Cnty., W. Va., AB 55 (Sub-No. 552X), slip op. at 2 (STB served Nov. 25, 1998). Accordingly, by operation of the Board’s regulations, CSXT’s authority to consummate abandonment of the Line will not expire until 60 days after the removal of the barrier, i.e., 60 days after NSR consummates its discontinuance authority.¹ As such, CSXT’s extension request will be denied as moot.

It is ordered:

1. CSXT’s request for an extension of time to consummate the abandonment authorized in this proceeding is denied as moot.

2. This decision is effective on its service date.

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

¹ In NSR’s discontinuance proceeding, NSR was directed to notify CSXT when it has consummated that authority. Norfolk S. Ry.—Discontinuance of Trackage Rts. Exemption—in Cuyahoga Cnty., Ohio, AB 290 (Sub-No. 553X), slip op. at 1 n.1 (STB served Sept. 25, 2024).