

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 424X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
POLK COUNTY, IOWA

Docket No. AB 414 (Sub-No. 9X)¹

IOWA INTERSTATE RAILROAD, LLC—DISCONTINUANCE OF LEASE AND
OPERATION AUTHORITY—IN POLK COUNTY, IOWA

Decided: June 5, 2026

On April 14, 2026, Norfolk Southern Railway Company (NSR) and Iowa Interstate Railroad (IAIS) jointly filed a petition under 49 U.S.C. § 10502 for an exemption from the prior approval requirements of 49 U.S.C. § 10903 for IAIS to discontinue service over, and NSR to abandon, an approximately 12.2-mile rail line between milepost DU 340.8 +/- and milepost DU 353.0 +/-, together with the 0.8-mile Clive Spur (collectively, the Line), all in Polk County, Iowa. Notice of the petition was served and published in the Federal Register on May 4, 2026 (91 Fed. Reg. 24,029). The Board's notice stated that notices of intent to file an offer of financial assistance (OFA) would be due by May 14, 2026, and requests for interim trail use/rail banking would be due by May 22, 2026.²

On May 26, 2026, Ellis & Eastern Company (E&E), a Class III rail carrier, late-filed a notice of intent to file an OFA to purchase the Line and moved for leave to late-file that notice.³ E&E states that although it was aware of this proceeding, "through inadvertence it did not file the formal expression of intent by the May 14, 2026 deadline." (E&E Mot. 2.) In its request for

¹ These proceedings are not consolidated but are being addressed in the same decision for administrative convenience.

² On April 27, 2026, the Polk County Conservation Board; the Cities of Des Moines, West Des Moines, Windsor Heights, Urbandale, Clive, and Grimes; and the Iowa Natural Heritage Foundation (collectively, Sponsors), timely filed requests for the issuance of a notice of interim trail use under the National Trails System Act, 16 U.S.C. § 1247(d), and a public use condition under 49 U.S.C. 10905, for a portion of the Line. NSR replied on May 1, 2026, indicating its willingness to engage in negotiations with the Sponsors. The Board will address the public use and trail use requests in a subsequent decision.

³ E&E's May 26, 2026 filing also includes a reply arguing that the Board should reject the joint petition for exemption. E&E's reply will be addressed in a subsequent decision.

leave to late-file its notice, E&E asserts that continued rail service over the Line would be in the public interest and that no party would be prejudiced if the Board accepted the late-filed notice. (*Id.* at 4-5.) On May 29, 2026, NSR filed a reply in opposition to E&E’s notice of intent, arguing that the Board should reject it as untimely. On June 2, 2026, E&E filed a correction to its prior filing.⁴

E&E’s motion for leave to late-file its notice of intent to file an OFA will be denied and the notice of intent will be rejected. E&E claimed its filing was late due to “inadvertence,” but that is not a sufficient reason for allowing it to file past the due date. *See, e.g., N. Coast R.R. Auth.—Aban. Exemption—in Mendocino, Trinity, & Humbolt Cntys., Cal.*, AB 1305X, slip op. at 3 (STB served June 10, 2022) (finding counsel’s “unforeseen travel delays” to be insufficient justification for accepting a notice of intent to file an OFA one day after the deadline). NSR’s objection also weighs in favor of rejecting E&E’s request. *See Knoxville & Holston River R.R.—Aban. Exemption—in Knox Cnty., Tenn.*, AB 580 (Sub-No. 1X), slip op. at 2 (STB served Feb. 20, 2025) (stating that accepting a late-filed notice of intent over a carrier’s objection “would be contrary to Congress’s direction to streamline the abandonment and OFA process”); *N. Coast R.R. Auth.*, AB 1305X, slip op. at 3 (“The Board generally will enforce the deadline for notices of intent to file an OFA, set out in 49 C.F.R. § 1152.27(c)(1)(i), where the railroad seeking to abandon or discontinue objects to a late-filed notice”); *Lassen Valley Ry.—Aban. Exemption—in Washoe Cnty., Nev. & Lassen Cnty., Cal.*, AB 1074X, slip op. at 1 (STB served Sept. 7, 2011) (“Allowing the late filing of an OFA over the owning rail carrier’s objection would be inconsistent with Congress’s direction to the Board to process OFAs within the strict time limits established by the statute.”). Moreover, E&E’s claim that allowing it to proceed with the OFA process belatedly would be in the public interest and would not prejudice any party is unpersuasive. As just noted, Congress has determined that it is in the public interest that the OFA process proceeds under the strict time limits Congress established. Accepting a late-filed notice of intent would prejudice NSR by delaying its ability to dispose of allegedly uneconomical assets. *See Knoxville & Holston River R.R.*, AB 580 (Sub-No. 1X), slip op. at 2.

For these reasons, E&E’s motion for leave to late-file will be denied. E&E’s notice of intent to file an OFA will therefore be rejected.

It is ordered:

1. E&E’s motion for leave to late-file its notice of intent to file an OFA is denied.
2. E&E’s notice of intent to file an OFA is rejected.

⁴ E&E clarifies that a statement by its president in its May 26, 2026 filing that E&E “anticipates it . . . will obtain an overhead trackage agreement with IAIS to serve shippers on the Line” was not intended to suggest that E&E has communicated with IAIS regarding trackage rights, haulage, or other operating arrangements over IAIS trackage, or that an arrangement with IAIS is in progress. (E&E Correction 1.)

3. The decision is effective on its service date.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.