

Before the
SURFACE TRANSPORTATION BOARD

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STB Docket No. AB 1242

**HARTWELL FIRST UNITED METHODIST CHURCH
- ADVERSE ABANDONMENT AND DISCONTINUANCE -
THE GREAT WALTON RAILROAD COMPANY, INC., IN HART COUNTY, GA**

**REPLY OF
HARTWELL FIRST UNITED METHODIST CHURCH
TO JULY 2019 STATUS REPORT OF
THE GREAT WALTON RAILROAD COMPANY, INC.**

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Dated: August 15, 2019

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On July 30, 2019, The Great Walton Railroad Company, Inc. (“GWRC”) filed its July 2019 Status Report (the “July 2019 Status Report”) pursuant to the requirements of the Board’s January 31, 2018 Decision (the “2018 Decision”) in this proceeding. Hartwell First United Methodist Church (“Hartwell First”) is filing this Reply because it believes that the July 2019 Status Report provides misleading and incomplete information to the Board relating to the GWRC’s use of the Line (or lack thereof), and its efforts to obtain the property it would need to construct a new spur and runaround track.¹

DISCUSSION

GWRC continues to describe the “Line” as consisting of both the single main line and the former runaround track. However, that is just not the case. As Hartwell First has continuously maintained, the “Line” in this proceeding involves only the 0.25 miles of the single main line track and associated right of way (varying between 20 feet and 12 feet wide) for which Hartwell First sought adverse abandonment authority. The adverse abandonment application did not

¹ Although the Board’s 2018 Decision did not specifically mention the right of Hartwell First (or other parties) to file a reply, the Board’s regulations provide that “[a] party may file a reply or motion addressed to *any pleading* within 20 days after the pleading is filed with the Board...” 49 CFR §1104.13(a) (emphasis added).

reference or include the north spur track that had previously been removed by GWRC (leaving the property for the Church), or the Clinkscates industrial track that had previously been connected to the north spur (and which together GWRC contends constituted a “runaround track”) because at the time of the filing there was no north spur or runaround track, and GWRC does not have (nor has it ever had) any property interest outside of the 20-foot main line right of way. The former north spur and the Clinkscates industrial track, whether used as a runaround or not, were never more than “ancillary track” (spurs or industrial track), and were never part of the main line “line of railroad.”² GWRC repeated mischaracterization of the former north spur as main line track does not make it so.

GWRC generally accurately reports on the rehabilitation of the Line (being the main line) as being complete (except for portion of the Line from Jackson Street to S. Forest Street which has not been repaired as it is still leased to TORCH). The fact GWRC has not constructed a new spur where the former north spur was located is not technically responsive to the Board’s status request about the condition of the Line since as discussed above, the spur track would not be, and never was, part of the Line. GWRC blames the Public Service Commission (“PSC”) for preventing the construction, although that is clearly not the case. GWRC sought affirmative relief from the PSC to allow for the condemnation of the Church’s land, but failed to establish its need for the property and the PSC merely denied the request. What is preventing GWRC’s construction is that it has no right, title or interest in the property where the former north spur was.

GWRC’s utilization of the Line has not been limited due to litigation. Rather, utilization of the Line has been limited due to the fact that there is no business need to use the Line. In the

² Whether the tracks were used as a “runaround” would not affect their status as spur or industrial sidings as opposed to main line tracks.

adverse abandonment proceeding GWRC claimed that it needed the Line to enable it to provide common carrier service to the one remaining customer Quality Industries (“Quality”) on the GWRC line between Bowersville and Hartwell, and to handle the suggested increase in traffic Quality was expecting. In fact, instead of increasing, Quality’s rail traffic has gone away – it has not received any rail shipments since June 2018. Even if there were a runaround, there is no current need for the Line to provide common carrier service because there is no demand for such service.³

Respectfully submitted,



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Dated: August 15, 2019

³ Although GWRC has been storing a few cars on the Line, it merely moved cars there from Airline where they had been stored, leaving additional empty track at Airline as well as the 4 miles of track between Airline and the Line.

VERIFICATION

I, Joe M. Whittemore, verify under penalty of perjury that the foregoing Reply is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on August 15, 2019.



Joe M. Whittemore

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of August, 2019, I served a copy of the foregoing

Reply on the following persons by the method indicated:

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