

SERVICE DATE – LATE RELEASE JUNE 11, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-511 (Sub-No. 4X)

CENTRAL RAILROAD COMPANY OF INDIANAPOLIS–ABANDONMENT EXEMPTION–
IN HOWARD COUNTY, IN

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: June 10, 2009

Central Railroad Company of Indianapolis (CERA)¹ filed a verified notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon 5.18 miles of rail line, consisting of 2.38 miles between milepost 181.26 and milepost 183.64, on CERA’s main line (West Kokomo line segment), and 2.8 miles between milepost 51.5 and milepost 54.3, on CERA’s Tipton Industrial Lead (South Kokomo line segment), in Howard County, IN. Notice of the exemption was served and published in the Federal Register on March 30, 2009 (74 FR 14186). The exemption was scheduled to become effective on April 29, 2009, but on April 3, 2009, US Rail Holdings, LLC (Rail Holdings) and Winamac Southern Railway Company (Offerors) jointly filed a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) to purchase CERA’s line segments. The filing had the effect of automatically staying the effective date of the exemption for 10 days, until May 9, 2009.

By decision served April 28, 2009, the proceeding was reopened, the exemption was made subject to two environmental conditions, and the requests for issuance of a notice of interim trail use and imposition of a public use condition were held in abeyance pending completion of the OFA process.

On April 29, 2009, Offerors timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the line segments for \$437,429. By decision served on May 4, 2009, the Offerors were found to be financially responsible and the effective date of the abandonment exemption was postponed to permit the OFA process to proceed.²

¹ CERA is a subsidiary of RailAmerica, Inc.

² US Rail Corporation (US Rail), a railroad operating affiliate of Rail Holdings, also was named as an offeror in the April 29, 2009 OFA filing and as the operator of the line segments following their acquisition. The May 4, 2009 decision inadvertently failed to specifically reference US Rail as one of the Offerors.

By letter dated May 29, 2009, CERA and Offerors advised the Board that the parties have entered into an agreement for the purchase of the line segments and for US Rail to operate the line segments.

When a carrier and a person offering to purchase a line under the OFA process enter into an agreement for continued rail service, the Board is required to approve the transaction and dismiss the abandonment notice of exemption. See 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2). Accordingly, the sale will be approved and the notice of exemption will be dismissed.³

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 10904, Offerors are authorized to acquire and US Rail to operate the line segments.
2. Under 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2), the notice of exemption is dismissed effective on the date the sale is consummated.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary

³ As noted, the April 28, 2009 decision imposed environmental conditions and provided that the requests for issuance of a notice of interim trail use and for a public use condition would be delayed pending completion of the OFA process, because the financial assistance process under 49 U.S.C. 10904 takes priority over interim trail use/rail banking and public use. Because the line is being sold under the OFA procedures, the dismissal of the notice of exemption will render the environmental conditions moot and preclude trail use and public use conditions.