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SERVICE DATE – NOVEMBER 20, 2017

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 327X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT AND DISCONTINUANCE
OF SERVICE EXEMPTION—IN CERRO GORDO COUNTY, IOWA

Decided: November 20, 2017

On October 12, 2017, Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. § 1152 subpart F—Exempt Abandonments and Discontinuance of Service for UP to: (1) abandon a 2.0-mile portion of UP’s Rockwell Industrial Lead in Mason City, Iowa, between milepost 155.5 near Elm Street and milepost 157.5 near 19th Street; and (2) discontinue service over a 0.5-mile portion of UP’s Rockwell Industrial Lead near Swifts, Iowa, between milepost 157.5 and milepost 158.0 (the Line). On November 1, 2017, notice of the exemption was served and published in the Federal Register (82 Fed. Reg. 50,729). The exemption is scheduled to take effect on December 1, 2017.

On November 13, 2017, M&StL Group, LLC (MSL), a noncarrier, filed a notice of intent to file an offer of financial assistance (OFA) to purchase the two-mile segment of the Line proposed for abandonment (between milepost 155.5 and milepost 157.5). On November 17, 2017, UP filed a response in opposition to MSL’s notice of intent.

MSL’s notice of intent to file an OFA does not comply with the Board’s requirements at 49 C.F.R. § 1152.27(c)(2)(i). On June 29, 2017, the Board adopted a final rule modifying its OFA procedures. Offers of Financial Assistance, EP 729 (STB served June 29, 2017); see also 82 Fed. Reg. 30,997 (July 5, 2017). That rule became effective on July 29, 2017. The rule included changes to the information required in a notice of intent to file an OFA, such as a new requirement that potential offerors make a preliminary financial responsibility showing based on a calculation using information contained in the carrier’s filing and publicly-available information. Offers of Financial Assistance, EP 729, slip op. at 6-9, 25-26.

Because it does not comply with the Board’s requirements, 49 C.F.R § 1152.27(c)(2)(i), MSL’s notice of intent to file an OFA will be rejected.¹

¹ Because MSL’s notice of intent will be rejected, the effective date of the exemption will remain December 1, 2017. On October 16, 2017, the City of Mason City, Cerro Gordo County, and the Iowa Natural Heritage Foundation filed a request for a public use condition and
(continued . . .)

It is ordered:

1. MSL's expression of intent to file an OFA is rejected.
2. This decision is effective on its date of service.

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

(. . . continued)

a notice of interim trail use. Additionally, the Board's Office of Environmental Analysis served an Environmental Assessment (EA) on November 6, 2017. The EA and the request for a public use condition and notice of interim trail use will be addressed in a subsequent decision.