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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB 1095 (Sub-No. 1)]

Paulsboro Refining Company LLC—Adverse Abandonment—In Gloucester County, N.J.

On January 10, 2014, Paulsboro Refining Company LLC (PRC) filed an application under 49 U.S.C. § 10903, requesting that the Surface Transportation Board (Board) authorize the third-party or adverse abandonment of approximately 5.8 miles of rail line (the Line) owned by PRC and currently operated by SMS Rail Service, Inc. (SMS). The Line is in Gloucester County, N.J., and traverses United States Postal Service Zip Code 08066. There are no mileposts or stations associated with the Line. The application is available on the Board's website at <http://www.stb.dot.gov>, or a copy can be secured from applicant's counsel, whose name and address appear below.

PRC owns a 970-acre refinery in Paulsboro, N.J. Within this facility, it owns the Line, which consists of approximately 5.8 miles of railroad tracks. SMS has provided service over the Line since August 2000, when it entered into an operating agreement with the facility's prior owner, Valero Refining Company – New Jersey (Valero-NJ).¹ Under the agreement, as amended, SMS provides common carrier service by interchanging traffic with Consolidated Rail Corporation (Conrail), on behalf of Norfolk

¹ See SMS Rail Service—Acquis. and Operation Exemption—Valero Refining Co.—N. J., FD 33927 (STB served Sept. 22, 2000).

Southern Railway Company (NSR) and CSX Transportation, Inc. (CSXT). SMS also provides plant switching services under the agreement.

PRC states that it no longer needs or seeks to use the common carrier services of SMS, and it wishes to receive its common carrier service from NSR, CSXT, or their agent Conrail, and to have its internal switching performed by a noncarrier switching contractor. PRC states that SMS currently serves only it and, to a minor extent, ExxonMobil Corporation (ExxonMobil). PRC adds that ExxonMobil “can also be served by PRC’s contract switching carrier” and does not object to the abandonment. PRC advises that it has given SMS proper notice of termination, as provided by their contract, but that SMS has refused to vacate the Line or file for abandonment authority to terminate its operations. According to PRC, it filed the instant application to remove Board jurisdiction from SMS’s operation of the Line so that PRC can proceed to evict SMS under New Jersey state law.

In a decision served in this proceeding on July 26, 2012, PRC was granted exemptions from several statutory provisions as well as waivers of certain Board regulations at 49 C.F.R. pt. 1152 that were not relevant to its adverse abandonment application or that sought information not available to it. Specifically, PRC was granted waivers of certain requirements pertaining to the notice of intent prescribed at 49 C.F.R. § 1152.21; exemption from 49 U.S.C. § 10903(c) and waiver of 49 C.F.R. § 1152.22(a)(5) pertaining to System Diagram Maps; waiver of 49 C.F.R. § 1152.20(a)(2)(x) that notice be served on Amtrak; waiver of 49 C.F.R. § 1152.20(a)(2)(xii) that notice be served on the headquarters of all duly certified labor organizations; exemption from 49 U.S.C. § 10903(a)(3)(B) and waiver of 49 C.F.R. §

1152.20(a)(3) concerning posting the notice of intent; waiver of 49 C.F.R. § 1152.33(d) pertaining to revenue and cost data; waiver of 49 C.F.R. § 1152.22(i) concerning the wording of this notice; exemption from 49 U.S.C. § 10904 and waiver of 49 C.F.R. § 1152.27, which govern an offer of financial assistance (OFA) to continue common carrier rail service; and exemption from the public use provisions of 49 U.S.C. § 10905 and waiver of 49 C.F.R. § 1152.28.

PRC states that the line does not contain federally granted rights-of-way. Any documentation in PRC's possession will be made available promptly to those requesting it. PRC's entire case-in-chief for adverse abandonment was filed with the application.

The interests of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed adverse abandonment or protests (including protestant's entire opposition case) by February 24, 2014. Persons who may oppose the proposed adverse abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing the proposed adverse abandonment who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 C.F.R. § 1152.25. PRC's reply is due by March 10, 2014.

Any request for a trail use condition under 16 U.S.C. § 1247(d) (49 C.F.R. § 1152.29) must be filed by February 24, 2014, and should address whether the issuance of a certificate of interim trail use in this case would be consistent with the grant of an

adverse abandonment application. Each trail use request must be accompanied by a \$250 filing fee. See 49 C.F.R. § 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 1095 (Sub-No. 1) and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; (2) Eric M. Hocky, Clark Hill Thorp Reed, One Commerce Square, 2005 Market Street, Philadelphia, PA 19103, (215) 640-8500.

Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's "www.stb.dot.gov" website, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 C.F.R. pt. 1152, every document filed with the Board must be served on all parties to this adverse abandonment proceeding. 49 C.F.R. § 1104.12(a).

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Board's Office of Environmental Analysis (OEA) will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact OEA by phone at the number listed below. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0238 or refer to the full abandonment/discontinuance regulations at 49 C.F.R. pt. 1152. Questions concerning environmental issues may be directed to OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at
"WWW.STB.DOT.GOV."

Decided: January 27, 2014.

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