

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 775X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN CLARK, FLOYD,
LAWRENCE, ORANGE, & WASHINGTON COUNTIES, IND.

Decided: February 6, 2018

On December 19, 2017, CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 C.F.R. § 1152 subpart F—Exempt Abandonments to abandon an approximately 62.3-mile rail line on its Northern Region, Louisville Division, Hoosier Subdivision between milepost 00Q 251.7, near Bedford, and milepost 00Q 314.0, near New Albany, in Clark, Floyd, Lawrence, Orange, and Washington Counties, Ind. (the Line). On November 1, 2017, notice of the exemption was served and published in the Federal Register (83 Fed. Reg. 936).

On January 17, 2018, the Indianapolis Metropolitan Railway (MRY) filed a notice of intent to file an offer of financial assistance (OFA) to purchase the Line. As filed, MRY's notice of intent did not comply with the Board's current requirements at 49 C.F.R. § 1152.27(c)(2)(i), but MRY was given an additional 10 days to supplement its notice of intent to comply with the Board's regulations. CSX Transp.—Aban. Exemption—in Clark, Floyd, Lawrence, Orange & Washington Ctys., Ind., AB 55 (Sub-No. 775X), slip op. at 2 (STB served Jan. 26, 2018). On February 5, 2018, the day its supplement was due, MRY requested an additional 14-day extension to file its supplemental notice of intent. Both CSXT and Paul Didelius, another potential OFA offeror, filed replies in opposition the same day.

Under 49 C.F.R. § 1104.7(b), the Board has discretion to extend the time period for filings upon request and with good cause. MRY states that the extension is “warranted by the issues raised by CSXT and our answer to all subsequent issues relating to their objections.” (MRY Request for Extension of Time 1.) The only issue raised by CSXT with respect to MRY, however, is that MRY did not comply with the Board's current OFA regulations. (CSXT Reply 1.) MRY makes no attempt to explain why it is unable to comply with the regulations in the extended time it has already been given. Thus, it has failed to demonstrate good cause why an extension is warranted. Accordingly, MRY's request for an extension of time will be denied.

Because MRY's January 17, 2018 notice of intent to file an OFA does not comply with the Board's requirements and no supplement was timely filed, the notice will be rejected.

It is ordered:

1. MRY's request for an extension of time is denied.
2. MRY's expression of intent to file an OFA is rejected.
3. This decision is effective on its date of service.

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