

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35416

ARKANSAS MIDLAND RAILROAD COMPANY, INC.—ALTERNATIVE RAIL
SERVICE—LINE OF CADDO VALLEY RAILROAD COMPANY

Decided: September 17, 2010

Digest: Arkansas Midland Railroad Company may provide rail service for 30 days on a rail line in Gurdon, Ark. currently owned and operated by Caddo Valley Railroad Company. This emergency relief is granted because Caddo Valley Railroad Company is in dire financial straits and will cease service to the shippers on the line within days.¹

On September 10, 2010, Arkansas Midland Railroad Company, Inc. (AKMD) filed an unopposed petition pursuant to 49 U.S.C. § 11123 and 49 C.F.R. pt. 1146 for an emergency service order allowing it to provide local rail service for an initial period of 30 days on 3 miles of rail line at Gurdon, Ark. (Gurdon Segment), now owned by Caddo Valley Railroad Company (CVR). The Gurdon Segment extends from a connection with Union Pacific Railroad Company (UP) at milepost 426.87 in Gurdon to milepost 430.00 north of Gurdon. The Gurdon Segment is part of a longer rail line that extends 52 miles to Birds Mill, Ark., known as the Norman Branch, formerly owned by AKMD and acquired by CVR in 2000 pursuant to the feeder line provisions of 49 U.S.C. § 10907.² The Gurdon Segment is the only line on which CVR currently provides service. CVR serves 2 shippers on the Gurdon Segment: Georgia-Pacific LLC, which operates a lumber and plywood mill (formerly owned by International Paper Company) at Gurdon; and Bean Lumber, which transloads lumber to rail at a siding located approximately at milepost 428.4. AKMD attached letters of support for the petition from CVR,³ the 2 shippers located on

¹ The digest constitutes no part of the decision of the Board, but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² See Caddo Antoine & Little Mo. R.R.—Feeder Line Acquisition—Ark. Midland R.R. Line Between Gurdon & Birds Mill, Ark., 4 S.T.B. 610 (2000), aff'd sub nom. GS Roofing Products Co. v. STB, 262 F.3d 767 (8th Cir. 2001); see also Caddo Antoine & Little Mo. R.R.—Feeder Line Acquisition—Ark. Midland R.R. Line Between Gurdon & Birds Mill, Ark., 4 S.T.B. 326 (1999).

³ CVR, as the incumbent carrier, also waived any rights it may have under 49 C.F.R. § 1146.1(b)(2) to file a reply. See Pet., Ex. 1.

the Gurdon Segment, and UP, CVR's sole connecting line haul carrier, as exhibits to its petition. See Pet., Exs. 1-4.

AKMD states, as supported by CVR's letter, that CVR has experienced serious financial difficulties and does not have enough cash resources to continue service or maintenance of the Gurdon Segment. Specifically, CVR has a single serviceable locomotive, on a short-term lease set to expire September 18, 2010. AKMD and CVR state that CVR is in no position to extend its lease or to make alternative locomotive arrangements, and that it will suspend its remaining operations as of that date, if not sooner. CVR does not anticipate being able to resume operations. Thus, the cessation of all rail service on the Gurdon Segment is imminent.

AKMD and CVR have discussed and agreed to the interim service by AKMD over the Gurdon Segment and have executed an "Agreement for Temporary Operation of Rail Line," which will govern AKMD's occupancy of the Gurdon Segment during the period of time the emergency service order is in effect. The agreement includes provisions to address compensation, maintenance, hiring, and liability. AKMD has also discussed its provision of emergency service with Georgia-Pacific, Bean Lumber, and UP, all of which support the petition.

In its petition, AKMD commits to provide rail service on the Gurdon Segment that will meet the needs of the 2 shippers. Prior to the feeder-line sale, AKMD provided rail service to the Georgia-Pacific mill at Gurdon. AKMD states that it has the infrastructure in Arkansas and experience in handling lumber products to assume responsibility for service over the Gurdon Segment. AKMD also notes that it has the locomotives, operating crews, maintenance-of-way crews, and overall ability to provide service on and maintain the Gurdon Segment. AKMD notes that it has inspected the track and is arranging for the Federal Railroad Administration (FRA) to inspect the line prior to commencement of its operations. AKMD commits to making any necessary repairs to the track at its own expense.

AKMD states that no coordination of operations between CVR and AKMD will be necessary, because CVR will have no remaining rail operations. AKMD also notes that it is working on putting into place inter-carrier arrangements with UP to interchange with UP at Gurdon. Not only does UP support the petition, but AKMD states that it has an extensive and positive working relationship with UP, as all of AKMD's existing operations in Arkansas connect with UP. AKMD served its petition on CVR, Georgia-Pacific, Bean Lumber, UP, and the FRA.

DISCUSSION AND CONCLUSIONS

The Board will grant AKMD's request for emergency interim service authority for 30 days. Under § 11123(a), the Board may require "joint or common use of railroad facilities" if the Board determines that a "shortage of equipment, congestion of traffic, unauthorized cessation of operations...or other failure of traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on shippers...or that a rail carrier... cannot transport the traffic offered to it in a manner that properly serves the public...."

Here, the uncontested evidence shows that CVR is in dire financial straits, will lose the lease on its only serviceable locomotive on September 18, 2010, and will be unable to provide service on the Gurdon Segment after that date. The 2 shippers on the line state that they will face substantial adverse effects from the loss of rail service. Given these circumstances and that all active shippers, the incumbent railroad, and the interchanging railroad support the petition, the Board finds the standard for emergency service relief under § 11123 has been met.

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

It is ordered:

1. Petitioners' unopposed petition for emergency service order is granted for 30 days from the date of service.
2. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham.