

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 261)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT—IN NEW MADRID,
SCOTT, AND STODDARD COUNTIES, MO

Decided: July 30, 2009

By decision and certificate of interim trail use or abandonment served on June 17, 2009, the Board, under 49 U.S.C. 10903, granted the abandonment application by Union Pacific Railroad Company (UP) of its Essex-to-Miner Line, extending from milepost 196.7, near Essex, to milepost 216.27, near Miner, a distance of 19.57 miles, in New Madrid, Scott, and Stoddard Counties, MO (the Line),¹ subject to trail use, public use, environmental, and standard employee protective conditions.

The decision and certificate was scheduled to become effective on July 17, 2009, unless it was stayed by the Board or 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)(1) was filed by June 26, 2009. On June 16, 2009, Mississippi Central Railroad Co. (MSCI) filed a notice of intent to file an OFA and asked that the Board toll the period for submitting OFAs for an additional 30 days. In a decision served on June 24, 2009, the Board tolled the due date for MSCI to file an OFA until July 24, 2009, and extended the effective date of the abandonment until August 3, 2009 (10 days after the due date of filing the OFA).

On July 27, 2009, MSCI late filed an OFA to purchase a portion of the Line, from milepost 208.95, near Sikeston, MO, to milepost 213.8, in Sikeston, a distance of 4.85 miles in Scott County, for \$302,990. MSCI states that UP agreed to extend the deadline for submission of an OFA until July 27, 2009. MSCI should have filed a request for the Board to extend this deadline, but it did not do so. However, because MSCI's late-filed OFA will not prejudice the Board's administrative handling of this proceeding and UP has not objected, the Board will grant MSCI leave to late file its OFA.

An OFA to acquire a line for continued rail service need not be detailed, but an offeror must show that it is financially responsible and that the offer is reasonable. See Conrail Abandonments under NERSA, 365 I.C.C. 472 (1981); 49 CFR 1152.27(c)(1)(ii)(B). MSCI asserts that it is financially responsible and that it has received a commitment from its parent company, Pioneer Railcorp (Pioneer), to finance the purchase with a no-interest loan. MSCI claims that Pioneer has unrestricted cash on hand in excess of \$600,000.

¹ In addition to the 19.57 miles of branch line, the Line includes approximately 4.4 miles of sidings and industrial track.

MSCI has not provided any evidence to verify its claims. Without verified assurances from either Pioneer or a financial institution that Pioneer has the requisite funds to finance MSCI's OFA, and without a verified statement from Pioneer that it will provide a loan to MSCI, the Board cannot make a determination that MSCI is a financially responsible offeror. MSCI also has not sufficiently explained the calculation of its \$302,990 offer, as required under 49 CFR 1152.27(c)(1)(ii)(C). MSCI's OFA, therefore, will be rejected.

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

It is ordered:

1. MSCI is granted leave to late file an OFA.
2. MSCI's OFA is rejected.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary