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SERVICE DATE – AUGUST 29, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-286 (Sub-No. 5X)]

The New York, Susquehanna and Western Railway Corporation—Discontinuance of Service Exemption—in Broome and Chenango Counties, NY

The New York, Susquehanna and Western Railway Corporation (NYS&W) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over a portion of NYS&W's line of railroad known as the Utica Main Line between milepost 202.62 at or near Chenango Forks, Broome County, and milepost 243.64 at or near Sherburne, Chenango County, NY, a distance of approximately 41.02 miles.¹ The line traverses United States Postal Service Zip Codes 13460, 13746, 13778, 13814, 13815 and 13830.

NYS&W has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) all overhead traffic has been rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR

¹ NYS&W states that it will use the discontinued line for rail car storage and other private uses. NYS&W also states that the title to the property is currently held by the Broome and Chenango County Industrial Development Authorities.

1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 1, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),² must be filed by September 8, 2008.³ Petitions to reopen must be filed by September 18, 2008, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NYS&W's representative: Eric M. Hocky, Thorp Reed & Armstrong, LLP, Once Commerce Square, 2005 Market Street, Suite 1910, Philadelphia, PA 19103.

² Effective July 18, 2008, the filing fee for an OFA increased to \$1,500. See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 Update, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

³ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

If the verified notice contains false or misleading information, the exemption is void ab initio.

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

Decided: August 25, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary