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SERVICE DATE – MAY 4, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-511 (Sub-No. 4X)

CENTRAL RAILROAD COMPANY OF INDIANAPOLIS–ABANDONMENT EXEMPTION–  
IN HOWARD COUNTY, IN

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: May 4, 2009

Central Railroad Company of Indianapolis (CERA)<sup>1</sup> filed a verified notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon 5.18 miles of rail line, consisting of 2.38 miles between milepost 181.26 and milepost 183.64, on CERA’s main line (West Kokomo line segment), and 2.8 miles between milepost 51.5 and milepost 54.3, on CERA’s Tipton Industrial Lead (South Kokomo line segment), in Howard County, IN. Notice of the exemption was served and published in the Federal Register on March 30, 2009 (74 FR 14186). The notice stated that the exemption was scheduled to become effective on April 29, 2009, unless stayed by the Board or unless 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)(2) was filed by April 9, 2009.

On April 3, 2009, US Rail Holdings, LLC and Winamac Southern Railway Company (Offerors) jointly filed a formal expression of intent to file an OFA to purchase CERA’s line segments proposed for abandonment, which had the effect of automatically staying the effective date of the exemption for 10 days, until May 9, 2009. By decision served April 28, 2009, the proceeding was reopened, the exemption was made subject to two environmental conditions, and the requests for issuance of a notice of interim trail use and imposition of a public use condition were held in abeyance pending completion of the OFA process.

On April 29, 2009, Offerors timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the line for \$437,429. This amount constitutes CERA’s estimate of the net liquidation value of the two line segments, which it provided Offerors by letter dated April 16, 2009, and which Offerors attached as Exhibit B.<sup>2</sup>

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<sup>1</sup> CERA is a subsidiary of RailAmerica, Inc.

<sup>2</sup> Offerors have requested that certain conditions be included as part of the agreement setting the terms and conditions of the purchase. If Offerors are seeking a Board order imposing those conditions at this time, Offerors’ request is premature.

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). Offerors state that they have together secured access to a line of credit of up to \$3,000,000. They state that the line of credit may be used as working capital in the ordinary course of business, to acquire short line railroads and to meet related short term operating expenses associated with acquired railroads. In support, Offerors have attached the Verified Statement of Gabriel D. Hall on behalf of Offerors and the signed statement of Ted Mills, Managing Director of ETC Capital, LLC.<sup>3</sup> Offerors' submission shows that they have the financial resources to acquire and operate the line. Offerors are thus found to be financially responsible.

Because Offerors are financially responsible and have offered financial assistance, the effective date of the exemption authorizing the abandonment will be postponed.

Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 CFR 1002.2(f)(26), which currently is \$22,700. An original and 10 copies of the request should be submitted, along with the fee, in an envelope bearing the docket number of this proceeding, along with the words "Attention: Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 CFR 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

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

It is ordered:

1. The effective date of the exemption is postponed to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.

2. If Offerors and CERA cannot agree on the purchase price, either party may request the Board to establish the terms and conditions of the purchase on or before May 29, 2009. If no agreement is reached and no request is submitted by that date, the Board will serve a decision vacating this decision and allowing the abandonment exemption to become effective.

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<sup>3</sup> See OFA at 3, Exhibit C and its Exhibit 1.

3. This decision is effective on its date of service.

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

Anne K. Quinlan  
Acting Secretary