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SERVICE DATE – LATE RELEASE OCTOBER 27, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-490 (Sub-No. 1X)

GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION –  
ABANDONMENT AND DISCONTINUANCE EXEMPTION – IN GREENVILLE  
COUNTY, SC

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: October 26, 2005

By decision and notice of interim trail use or abandonment served on October 12, 2005, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by Greenville County Economic Development Corporation (GCEDC) of approximately 11.8 miles of rail line, extending from milepost 0.0 in Greenville, SC, to milepost 11.8 in Travelers Rest, SC (Northern Segment), and discontinuance of service by GCEDC over 3.29 miles of rail line, extending from milepost AJK 585.34 in East Greenville, SC, to milepost AJK 588.63 in Greenville (Southern Segment), Greenville County, SC, subject to trail use, public use, and environmental conditions. The exemption was scheduled to become effective on November 11, 2005, unless an offer of financial assistance (OFA) was filed on or before October 24, 2005.

On October 3, 2005, Western Carolina Railway Service Corporation (WCRSC) filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the entire Northern Segment for \$46,268.<sup>1</sup> On October 17, 2005, WCRSC supplemented its OFA by filing exhibits not included in its October 3, 2005 filing.

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). WCRSC has submitted financial information showing that it has access to sufficient financial resources to acquire and operate the Northern Segment. WCRSC is thus found to be financially responsible.

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<sup>1</sup> WCRSC also filed a motion for protective order under 49 CFR 1104.14 to file under seal certain confidential documents and information in connection with its OFA. The confidential documents include non-public financial information. By decision served on October 7, 2005, the motion was granted and a protective order was issued. Consistent with the terms of the protective order, WCRSC filed a public version of the OFA. The confidential version will be kept under seal.

WCRSC's offer is less than GCEDC's estimated valuation of \$1.7 million. According to WCRSC, GCEDC included a land value of \$574,000 in the minimum purchase price, even though its interest in the Northern Segment is an easement only. WCRSC contends that the Northern Segment has a negative net liquidation value (NLV). Therefore, it argues that NLV cannot be used to arrive at a fair purchase price and that the less than fee simple ownership interest in the Northern Segment yields a valuation of \$46,268 for that segment. Consistent with 49 U.S.C. 10904(c), and 49 CFR 1152.27(c)(1)(ii)(C), WCRSC has explained the basis for the disparity between its offer and the carrier's estimate of the purchase price or acquisition price.

Because WCRSC is financially responsible and has 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 \$18,400. 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: Office of Proceedings, 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 action 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 decision authorizing the abandonment is postponed to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.

2. If WCRSC and GCEDC cannot agree on the purchase price, either party may request the Board to establish the terms and conditions of the purchase on or before November 16, 2005. 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.

3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary