

agreement (unlike the prior ones) incorporates a method of determining rates for dedicated trains which grants NSR an increment over the Eastern rate basis to equalize the cost of shipments nationwide;

(3) establishes that the movement of these radioactive materials constitutes common carrier service; addresses the elements of service required of NSR; adopts guidelines for safe handling and security; and obligates NSR to provide, as needed, “extra services” as described in the agreement, at the rates agreed upon;

(4) adopts a rate methodology to:

(a) Apply to all future movements of these radioactive materials in common carrier service. The methodology adopts maximum R/VC markups (not in excess of 1.80, 2.50, or 3.51 times the shipment cost, depending on commodity type, equipment being utilized, and services being performed) of NSR’s most current system-average variable unit costs computed under the Board’s Uniform Railroad Costing System. The Government agrees to limit the application of the Eastern rate basis established in the *Eastern Case* to the former lines of those railroads specifically listed in the *Eastern Case*; and

(b) compensate NSR for “extra services” and dedicated train service, when requested by the Government, and procedures to calculate “Equitable compensation” for emergency-related costs that NSR may incur;

(5) adopts a procedure to update compensation for rates and “extra services” annually to reflect changes in NSR’s system-average unit costs;

(6) extinguishes NSR’s liability (and that of its predecessors and subsidiaries) for reparations in all matters arising out of these proceedings; and

(7) adopts alternative dispute resolution procedures with final recourse to the Board and mechanisms to renegotiate portions of the agreement in a limited number of circumstances or if changed circumstances make further adherence to the terms of the agreement “grossly inequitable” to either party.

Movants request that the Board: (1) Prescribe the rate methodology and maximum R/VC ratios that have been agreed to for the radioactive materials and rail services that are the subject of the agreement; (2) dismiss NSR as a

various minimum weights as local and proportional rate factors. The prescription was applicable within the East, but primarily was to be used for through movements destined beyond the lines of the rail carriers covered by the prescription. The ICC’s 1980 decision was affirmed in *Consolidated Rail Corp. v. ICC*, 646 F.2d 642 (D.C. Cir. 1981), cert. denied, 454 U.S. 1047 (1981).

defendant in these proceedings, extinguish NSR’s liability for reparations in all matters arising out of these proceedings, and relieve NSR from any further requirement to participate in these proceedings (except in response to a properly issued subpoena under the Board’s rules); (3) retain jurisdiction over these proceedings and continue to hold them in abeyance pending further settlement negotiations; and (4) publish notice of their motion and the proposed NSR Settlement Agreement in the **Federal Register** and adopt a procedural schedule for the filing of comments and replies.

The Board will grant Movants’ request in part at this time. Notice of the motion and proposed NSR Settlement Agreement will be published in the **Federal Register**. A procedural schedule will be adopted for the filing of comments on the proposed settlement agreement as well as to permit replies responsive to Movants’ remaining requests. Comments are due by March 20, 2017. Reply comments are due by April 19, 2017. Comments should also address whether it is appropriate to close these dockets.²

It is ordered:

1. Movants’ request that notice of their motion and proposed agreement be published in the **Federal Register** is granted.

2. Movants and interested persons must comply with the procedural schedule and requirements outlined above.

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

Decided: January 31, 2017.

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

Marline Simeon,

Clearance Clerk.

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SURFACE TRANSPORTATION BOARD

[Docket No. AB 1251X]

Southwestern Railroad, Inc.—Discontinuance of Service Exemption—in Curry, Roosevelt, Chaves, and Eddy Counties, N.M.

On January 17, 2017, Southwestern Railroad, Inc. (SWRR), filed with the Board a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue common carrier rail service over approximately 227.6 miles of rail lines consisting of the following segments (the Lines): (1) The Carlsbad Subdivision between milepost 0.5 at Clovis, N.M., and milepost 183.0 at Carlsbad, N.M.; (2) the Carlsbad Yard;¹ (3) the Carlsbad Industrial Spur between milepost 0.0 at Carlsbad, N.M., and milepost 20.0 near Carlsbad, N.M.; and (4) the Loving Industrial Spur between milepost 0.0 at Carlsbad, N.M., and milepost 20.0 at Loving, N.M. The Lines are owned by BNSF Railway Company (BNSF).

SWRR states it acquired authority to lease and operate the BNSF-owned Lines in 2004.² According to SWRR, BNSF notified SWRR in 2016 that it wished to resume operations over the Carlsbad Division prior to the termination of the current lease. SWRR states that, after negotiations, SWRR and BNSF filed an amendment to the lease agreement that allowed BNSF to resume operations over the Lines on January 17, 2017.³ SWRR explains that as of January 17, 2017, both SWRR and BNSF have a common carrier obligation to provide service over the Lines until such time that SWRR’s discontinuance authority is granted. Additionally, SWRR states that, because shippers currently served by SWRR will also be served by BNSF during this discontinuance proceeding and will be served by BNSF after any SWRR discontinuance authority is granted, there will be no interruption of service and no shippers served by the Lines will be disadvantaged when and if SWRR ceases operations.

SWRR states that BNSF is the owner of the Lines, but based on information in SWRR’s possession, the Lines do not contain federally granted rights-of-way.

¹ SWRR states that there are no mileposts associated with the approximately 5.1 miles of rail lines located in the Carlsbad Yard.

² See *Sw. R.R.—Lease & Operation Exemption—Burlington N. & Sanfe Fe Ry.*, FD 34533 (STB served Oct. 22, 2004). SWRR states that SWRR and BNSF have amended the lease agreement five times since its inception.

³ See *Sw. R.R.—Lease & Operation Exemption—Burlington N. & Sante Fe Ry.*, FD 34533 (Sub-No. 1) (STB served Aug. 12, 2016).

Any documentation in SWRR's possession will be made available promptly to those requesting it.

SWRR asserts that, because it is terminating operations over its entire system,⁴ the employee protective conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979), should not be imposed.⁵

Because this is a discontinuance proceeding and not an abandonment proceeding, trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during abandonment, this discontinuance does not require an environmental review.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by May 5, 2017.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than May 15, 2017, or 10 days after service of a decision granting the petition for exemption, whichever occurs first. Each OFA must be accompanied by a \$1,700 filing fee. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2016 Update*, EP 542 (Sub-No. 24) (STB served August 2, 2016).

All filings in response to this notice must refer to Docket No. AB 1251X and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001; and (2) William A. Mullins and Crystal M. Zorbaugh, Baker and Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037. Replies to the petition are due on or before February 6, 2017.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment or

⁴ SWRR currently operates two divisions, the Carlsbad Division and the Whitewater Division. SWRR explains that it is discontinuing its operations pursuant to a lease over the Carlsbad Division in this proceeding and selling its Whitewater Division in an unrelated proceeding. *See N.M. Cent. R.R.—Acquis. & Operation Exemption—Sw. R.R. Whitewater Div.*, FD 36085 (Filed Dec. 17, 2016). SWRR states that upon consummation of the Carlsbad and Whitewater Divisions transactions, SWRR will cease to be a common carrier entity.

⁵ *See Wellsville, Addison & Galeton R.R.—Aban. of Entire Line in Potter & Tioga Cty., Pa.*, 354 I.C.C. 744 (1978); and *Northampton & Bath R.R.—Aban. near Northampton & Bath Junction in Northampton Cty., Pa.*, 354 I.C.C. 784 (1978).

discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our Web site at WWW.STB.GOV.

Decided: February 1, 2017.

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

Jeffrey Herzog.

Clearance Clerk.

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be sent by fax to (571) 465-4326 or by electronic mail to prainfo@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557-0230, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503 or by email to: oirasubmission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor.

“Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC requests that OMB extend its approval of the following collection.

Title: Fair Credit Reporting: Affiliate Marketing.

OMB Control No.: 1557-0230.

Type of Review: Regular.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 97,773.

Total Annual Burden: 10,281 hours.

Description: Section 214 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act),¹ which added section 624 to the Fair Credit Reporting Act

¹ Public Law 108-159, 117 Stat. 1952 (December 4, 2003).