

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 603 (Sub-No. 4X)

V AND S RAILWAY, LLC—ABANDONMENT EXEMPTION—IN PUEBLO, CROWLEY,  
AND KIOWA COUNTIES, COLO.

Decided: September 17, 2015

V and S Railway, LLC (V&S) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a line of railroad extending between milepost 747.5 near Towner and milepost 869.4 near NA Junction, a distance of 121.9 miles in Pueblo, Crowley, and Kiowa Counties, Colo. (the Towner Line). Notice of the exemption was served and published in the Federal Register on August 21, 2015 (80 Fed. Reg. 50,922). The notice stated that the exemption would become effective on September 20, 2015, unless 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 C.F.R. § 1152.27(c)(2) was filed by August 31, 2015.

On August 24, 2015, two noncarriers, KCVN, LLC, and its wholly owned subsidiary, Colorado Pacific Railroad, LLC (collectively, Offerors), jointly filed a formal expression of intent to file an OFA to purchase the Towner Line. This filing automatically stayed the effective date of the exemption by 10 days, until September 30, 2015.<sup>1</sup>

In the filing, the Offerors request that V&S provide them with the information set forth in 49 C.F.R. § 1152.27(a), including the minimum purchase price required to acquire the Towner Line. The Offerors also request that V&S provide its most recent reports on the physical condition of the Towner Line and its estimate of the Towner Line's net liquidation value (NLV), including, at a minimum, supporting data reflecting available real estate appraisals, assessments of the quality and quantity of track material on the Towner Line, and removal cost estimates (including the cost of transporting removed materials to point of sale or point of storage for relay use). The Offerors also ask for the data necessary to determine the amount of financial assistance required to restore and maintain operations over the Towner Line.

Beyond the data concerning costs and track condition, the Offerors ask that V&S provide what the Offerors deem relevant documentation concerning easements and rights-of-way that are associated with the Towner Line. The Offerors are particularly interested in information related to the agreement by which V&S purchased the Towner Line and any conditions or agreements to which an operator might be subject. The Offerors also ask that V&S permit them to inspect the Towner Line. To provide them with an adequate opportunity to review and analyze the material

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<sup>1</sup> See 49 C.F.R. § 1152.27(c)(2)(i).

to be provided by V&S, the Offerors request that the Board toll the 30-day period for submitting OFAs for an additional 30 days.

In a filing submitted on September 16, 2015, the Offerors note that V&S has provided some of the information the Offerors seek here and state that V&S has indicated that it does not object to the tolling request.

The request for an extension of the OFA filing deadline is warranted and will be granted because the information necessary to formulate the OFA is still being provided to the Offerors. Accordingly, the due date for the Offerors to submit their OFA will be extended by 30 days, until October 20, 2015, and the effective date of the exemption will be further extended until October 30, 2015.

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

It is ordered:

1. The request to toll the due date for submitting an OFA in this proceeding is granted.
2. The deadline for the Offerors to file an OFA is extended to October 20, 2015.
3. The effective date of the exemption is postponed until October 30, 2015.
4. This decision is effective on its service date.

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