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SERVICE DATE - LATE RELEASE MAY 4, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-459 (Sub-No. 2X)

CENTRAL RAILROAD COMPANY OF INDIANA--ABANDONMENT EXEMPTION--
IN DEARBORN, DECATUR, FRANKLIN, RIPLEY, AND SHELBY COUNTIES, IN

Decided: May 4, 1998

In this decision, we are denying a petition for exemption filed by Central Railroad Company of Indiana (CIND or petitioner) to abandon its Shelbyville Line in Indiana.

BACKGROUND

On January 14, 1998, CIND filed a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Shelbyville Line, extending from approximately milepost 23.0, near Thatcher station and the town of Greendale, to approximately milepost 81.0, near Shelbyville, a distance of approximately 58 miles in Dearborn, Decatur, Franklin, Ripley, and Shelby Counties, IN. Notice of the petition was served and published (63 FR 5418) on February 2, 1998. Also on that date, the Board served a decision of the Secretary granting, in part, CIND's request for a protective order.

Subsequently, in a decision served February 27, 1998, the Secretary denied a motion by CIND seeking an order denying discovery requests filed by certain persons who ship goods over the line or who otherwise have an interest in the proceeding, and who expressed an intent to oppose the petition (hereafter "protestants").¹ Thereafter, in a decision served April 1, 1998, we denied a motion by protestants that we exempt ourselves from the applicable statutory deadline for a decision

¹ These persons filed a protest on April 10, 1998, and are identified *infra*. With the exception of Consolidated Grain & Barge Co., they are the complainants in a pending related proceeding in STB Finance Docket No. 33386, Decatur County Commissioners, et al. v. Central Railroad Company of Indiana (the complaint proceeding).

on the merits, and that we compel certain types of discovery.² Also in the April 1 decision, we set April 10, 1998, as the due date for any protest.

A joint protest was filed by Decatur County, IN, City of Shelbyville, IN, Shelby County, IN, Consolidated Grain & Barge Co. (Consolidated), Premier Ag Coop (Premier), Greensburg Milling, Inc. (Greensburg Milling), Kolkmeier Bros. Feed & Grain (Kolkmeier), Kova Fertilizer, Inc. (Kova), Lowe's Pellet & Grain Co. (Lowe's), and Knauf Fiber Glass, GmbH (Knauf). The Indiana Department of Transportation (INDOT) filed a protest and a request that any grant of an exemption be made subject to a public use condition under 49 U.S.C. 10905. Indiana Lieutenant Governor Joseph E. Kernan, Indiana State Senator Robert N. Jackman, and CIND engineer Robert E. Rosengarn filed letters opposing the petition.

Hoosier Rails-to-Trails Council Inc. (Hoosier) filed a request for a public use condition and for the issuance of a notice of interim trail use or abandonment (NITU) under the National Trails System Act, 16 U.S.C 1247(d). Great Miami, Inc., submitted a notice of an intent to file an offer of financial assistance under 49 U.S.C. 10904 in the event the petition is granted. The United Transportation Union submitted a request for the imposition of labor protective conditions. CIND replied that it is willing to negotiate a trail use agreement with Hoosier and that it does not oppose INDOT's request for a public use condition, except to the extent that such a condition would prevent CIND from salvaging the line.

On April 24, 1998, we received a petition from CIND, reflecting concurrences from the protestants and RailTex, Inc. (RailTex), asking that we hold this proceeding in abeyance. CIND states that it has entered an agreement with RailTex to sell the Shelbyville Line to it. That being the case, CIND recites that “. . . in light of this development, CIND, RailTex and Protestants (the ‘Parties’) agree that continuing the abandonment proceeding at this time would be inappropriate.” CIND, however, has not requested the withdrawal of its petition for exemption at this time, and indicates that it will seek a decision from the Board on its petition if the acquisition by RailTex has not occurred by June 15, 1998.

If CIND did not wish to pursue its petition following its agreement with RailTex, CIND could have withdrawn its petition. As we pointed out in our decision served April 1, 1998, in this proceeding, this case is subject to a deadline established by Congress. The parties fail to assert, much less demonstrate, that we may grant the relief they seek and still comply with the statute. Nor

² On March 31, 1998, protestants filed a renewed motion to compel discovery, and, on April 10, 1998, CIND replied to the motion. In view of our findings here, we need not rule on the motion. We advise protestants, however, that their references to our rule at 49 CFR 1121.3(a) are without merit. The rule directs a petitioner to make its entire case at the time it files its petition. It does not provide a basis for an opposing person to seek discovery of any particular material that was not submitted to the Board.

has CIND shown that our action on its outstanding petition will adversely affect its proposed sale of the Shelbyville Line to RailTex.

We also will reject a reply filed by CIND on April 30, 1998. Although styled a rebuttal, the pleading is a reply to protestants' reply to CIND's petition, and as such is prohibited by 49 CFR 1104.13(c). CIND filed its petition knowing that our procedures provide only for the filing of a petition and a reply thereto. Had CIND wished to assure itself the right to rebut a filing in opposition to its abandonment request, it could and should have filed a formal application. CIND's reply is prohibited by our rules and, worse, is filed so late--only 4 days before the date we must issue our decision in this case--that we lack adequate time to consider it.

POSITIONS OF THE PARTIES

CIND's petition. CIND's system is comprised of an 81-mile line that extends from milepost 0.0, at Cincinnati, OH, to the southeast, to milepost 81.0, near Shelbyville, to the northwest, including a 23-mile southern segment connected to the subject Shelbyville Line. CIND purchased the entire line from Consolidated Rail Corporation (Conrail) in 1991. CIND has trackage rights over Conrail track from Shelbyville, through Indianapolis, IN, to Frankfort, IN, where CIND connects with its affiliate Central Railroad Company of Indianapolis (CERA). Petitioner also interchanges with Toledo, Peoria & Western Railway Corp. (TPW) at Frankfort and with Conrail at Indianapolis and Cincinnati.

Petitioner indicates that, when it began operations on the line in 1992, the line generally was in Federal Railroad Administration (FRA) Class 2 condition but that, by November 1994, approximately 30 miles of the Shelbyville Line had deteriorated to FRA Class 1 condition. Petitioner asserts that it had deferred maintenance on the line due to severe financial losses and low traffic density. In 1995, however, CIND returned the 24-mile segment from Sunman (milepost 39.0) to Greensburg (milepost 63.0) to FRA Class 2 status by installing approximately 100 ties per mile. Thereafter, in the spring of 1996, CIND became aware of slippage of the right-of-way, erosion, and other problems between mileposts 23.0 and 39.0. CIND says it made temporary repairs, but, particularly with respect to slippage at milepost 32.8, conditions worsened. In early 1997, CIND embargoed the segment between mileposts 23.0 and 39.0 and advised Shelbyville Line shippers that it would continue to serve them via Shelbyville at increased rates.³

CIND indicates that it seeks to abandon the line because it is not economically feasible to restore service over it.

Prior to the embargo, CIND provided service on the line using a two-man crew and a single engine stationed at Greensburg. On Mondays, Wednesdays, and Fridays, CIND operated

³ The embargo and the increased rates are the subject of the pending complaint proceeding.

southbound to its Valley Junction Yard, at milepost 17.0.⁴ On Tuesdays, Thursdays, and Saturdays, CIND operated northbound to interchange with Conrail at Shelbyville and with CERA at Hill Yard in Indianapolis. On days that traffic required and time permitted, CIND would switch its customers at Greensburg during northbound operations.

There are five shippers on the Shelbyville Line: Kolkmeier is situated at St. Paul (milepost 73.0), and Premier, Kova, Lowe's, and Greensburg Milling are situated at Greensburg. The last two-named shippers are located on a 1.25-mile long spur that connects with the main line at milepost 63.0.⁵ CIND provides traffic and revenue data for 1996, the last full year of operations prior to the embargo, and averages for the 3-year period immediately preceding the embargo. Petitioner shows that, in 1996, it handled 648 carloads for the five shippers, from which it derived revenue of \$178,017. Petitioner shows the 3-year average to be 770 carloads and \$207,784. It points out that volumes have been decreasing.

Overhead traffic on the line may be divided into three categories: (1) traffic that moves from or to points on CIND's southern segment and that is interchanged with CERA at Frankfort; (2) traffic that moves from or to CIND's southern segment and that is interchanged with TPW at Frankfort; and (3) traffic interchanged with Conrail. Petitioner states that all of the Conrail traffic that formerly moved over the Shelbyville Line to interchange at Shelbyville or Indianapolis now is interchanged at Cincinnati. Accordingly, neither the revenue nor the expenses from the Conrail traffic are contained in petitioner's computations. Petitioner indicates that the 3-year average of CERA and TPW overhead traffic on the line was 358 carloads and 382 carloads, respectively, contributing revenue of \$206,239 and \$167,697. For 1996, CERA traffic accounted for 386 carloads and \$193,431 in revenue, and TPW traffic represented 420 carloads and \$186,848 in revenue.⁶

Finally, CIND indicates that it receives \$20,000 a year in income from property leases. Combining this income with revenues from local and overhead traffic, then, shows 3-year average revenue of \$613,504 a year.

⁴ Petitioner indicates that, during southbound operations, if time permitted, it would stop to switch Anchor Glass, a shipper situated east of Thatcher, at milepost 23.0. Petitioner does not consider Anchor Glass to be a shipper on the Shelbyville Line.

⁵ Petitioner notes that Lowe's is at the end of the spur, and Greensburg Milling is located just off the main line. Petitioner states that the spur currently is out of service between the two shippers due to track conditions. It appears, then, that Lowe's cannot currently be served. Petitioner adds that Kova's traffic moves through Greensburg Milling's facilities.

⁶ Petitioner points out that it has included revenue and cost figures relating to this traffic in its analysis even though it does not know whether the overhead traffic would move via the Shelbyville Line in the event of a restoration of service.

CIND estimates that its annual direct operating costs are \$560,880, and that its annual costs for property taxes and insurance are \$45,639. While the line would be viewed as marginally profitable if one were to consider only these costs, petitioner presents evidence that the costs of necessary rehabilitation and maintenance are very substantial. Based on an engineering inspection and analysis conducted by Richard H. McDonald, CIND indicates that the embargoed segment contains four problem areas that make it unsafe for train operations. The cost to repair the areas to a minimum level of safety according to CIND totals \$262,000. An additional \$16,000 would be required to repair four areas on the line where erosion has caused damage. Even after the expenditure of \$278,000, petitioner argues, neither the embargoed segment nor several other portions of the line would meet FRA Class 1 track standards. CIND estimates that, to bring the line up to such standards, an additional one-time cost of \$190,000 for tie replacement and surfacing, and \$307,000 for bridge repairs, would be required. Further, CIND argues that, in order for it to be able to efficiently operate over the Shelbyville Line, the track should be repaired to FRA Class 2 standards at an additional cost of \$1,395,250. CIND concludes that, to return the line to FRA Class 1 status, the railroad's first year cost of rehabilitation and maintenance would be \$602,479, second year cost would be \$538,000, and third year cost would be \$480,000. In sum, CIND projects first year annual avoidable losses at \$595,494, second year at \$531,015, and third year at \$473,015.

CIND asserts that, although the avoidable expenses of operating the line alone support abandonment, and it is not necessary for petitioner to rely on the opportunity costs associated with the line, it has had Mr. McDonald prepare an estimate of the line's net liquidation value (NLV). Petitioner indicates that the total value of materials in the line is \$4,704,000 and removal costs would be \$970,000, resulting in an NLV of \$3,734,000. Mr. McDonald made no evaluation of the value of the real property underlying the line. However, referring to a 1982 Conrail abandonment proceeding before the Interstate Commerce Commission, petitioner suggests that the value is at least \$471,646.

Petitioner argues that Board regulation of the abandonment is unnecessary, as the traffic on the line cannot support an economically feasible operation. It asserts that the transaction is limited in scope, as the subject route is less than 58 miles in length, and that abandonment would affect only five shippers who have alternative transportation available. Also, CIND states, no shipper has indicated that any significant increase in traffic could reasonably be expected in the future. Petitioner concludes that there will be no abuse of market power, as the shippers are not dependent on CIND, and the railroad had set rates artificially low to attract business.

Protestants' reply. The protestants include the five shippers named by petitioner and two additional shippers -- Knauf, which operates a fiberglass manufacturing plant immediately north of milepost 81 on the line over which CIND has trackage rights, and Consolidated, which operates a marine terminal at Cincinnati. Protestants also include three local government entities concerned that a loss of rail service will impede development of the area served by the Shelbyville Line. In support of their presentation, protestants submit statements by the general managers of Lowe's,

Greensburg Milling, and Premier, the presidents of Kolkmeier and Kova, engineer Jack Braun, transportation consultants Gerald W. Fauth III and James E. Libke, and former CIND General Manager Henry E. Weller.

Protestants argue that CIND has grossly understated the revenue attributable to the Shelbyville Line. First, protestants claim that Anchor Glass is a shipper on the line and that, in CIND's operations, the railroad treats Anchor Glass as a main line customer. Protestants indicate that, whereas CIND might claim that it serves Anchor Glass from track that departs from the main line south of milepost 23, the facts are that the CIND line at milepost 23 is a double track, the tracks occupy a common portion of the right-of-way proposed for abandonment, and the segment serving Anchor Glass does not leave the right-of-way until it reaches milepost 23.4. Protestants add that, as CIND's petition recognizes, Conrail, in its abandonment proceedings, described the location of Anchor Glass's predecessor as milepost 23.4.

Protestants next contend that CIND improperly has excluded all overhead revenue related to Conrail traffic on the ground that such traffic has been rerouted. Protestants aver that CIND has, in fact, lost and will not retain much of the revenue associated with the Conrail overhead traffic that has been rerouted. Protestants assert that, under Board regulations and precedent, a carrier is required to attribute revenues from overhead traffic to a line to be abandoned to the extent that such traffic will not be retained. Next, the five shippers on the line present evidence that they are willing to make firm and, if necessary, contractual commitments to minimum volumes of increased traffic if they receive reasonable service. The shippers assertedly are positioned to increase their traffic from its present average of 770 carloads to 2,200 carloads annually. Finally, protestants claim that CIND improperly has omitted demurrage revenues from its calculations.

Protestants assail CIND's calculations of operating expenses. They assert that significant elements are unsubstantiated by workpapers. These elements include hourly wages for train crews, an overhead additive claimed for train crew wages, car hire expenses claimed for system cars or leased cars, and the claimed cost of leasing a locomotive on a year-round basis. Protestants argue that petitioner's expenses are based on a constructive set of operating conditions that is briefly explained and presented without any supporting witness. The assumptions assertedly present hypothetical operations in their worst light, attributing unnecessarily long and unexplained crew hours to the service contemplated.

Protestants vigorously contest the amounts CIND claims are necessary to restore the line to a safe operating condition. Protestants question whether Mr. McDonald, in fact, personally inspected the line, given the facts that he claimed to accomplish the sizable task in only 2 days and has presented no workpapers supporting his inspection and analysis. Even if considered on the merits, protestants contend, Mr. McDonald's conclusions regarding track and bridge rehabilitation are unconvincing. Protestants claim that the line already is largely in FRA Class 2 track condition, with the balance in FRA Class 1 condition. Rehabilitation of the line, where necessary, assertedly can be accomplished for \$249,000. Protestants argue that, among other errors, Mr. McDonald has greatly overstated the number of cross tie installations necessary in order for operations over the line to

resume. To the extent the line is not now in Class 1 condition, protestants argue, its can attain that status with 700 serviceable ties per mile, not 3,200 as assumed by Mr. McDonald. Protestants also note that some damage was done to the line when fiber optic cable was installed. Claiming that CIND received \$547,000 in revenue related to the installation, protestants argue that petitioner should credit the line with as much of that revenue as is necessary to restore the line to the same condition it was in before the installation occurred.

Also with regard to claimed expenses, protestants argue that property taxes should be excluded because CIND has not indicated that it intends to sell or dispose of its property following abandonment. Protestants add that insurance costs should also be excluded because CIND has not stated that it intends to scrap the line.

Protestants suggest that there are other problems regarding the petition. First, the spur on which Lowe's, Greensburg Milling, and Kova are situated, known as the Westport Industrial Track is, in protestants' view, an extension of petitioner's "line of railroad" within the meaning of section 10903. Hence, protestants argue, the segment was improperly excluded from the abandonment request. Protestants argue that the Westport Industrial Track consistently has been treated as a line of railroad, as opposed to a spur exempt from regulation. Protestants assert that CIND specifically included the track in its 1991 line purchase from Conrail, and that CIND daily operates the track as an extension of its main line. Protestants also aver that, if CIND abandons the Shelbyville Line, it will be unable to exercise its trackage rights over the Conrail line between Shelbyville and Frankfort. Thus, according to protestants, there would be an unauthorized de facto abandonment or discontinuance of trackage rights. Protestants argue, then, that CIND must seek authority or an exemption relating to the abandonment or discontinuance of its trackage rights.

Finally, protestants argue that the proposed exemption would have a severe, adverse impact on the shipping public. Closing of the line assertedly has caused, and will continue to cause, a diversion of grain traffic from the protesting shippers to competing grain elevators, to the detriment of grain producers. Truck transportation is not considered a viable, permanent substitute for rail service, and shippers do not have access to nearby transloading facilities contrary to CIND's claims. Further, protestants argue, the absence of rail service at Greensburg and St. Paul would harm not only the individual opposing shippers, but also the communities in which they are located and the farmers living and working in those communities.⁷

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 10903, a rail line may not be abandoned without our prior approval. Under 49 U.S.C. 10502, however, we must exempt a transaction or service from regulation when we find that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49

⁷ In view of our findings below, we need not and will not discuss the additional pleadings filed in this proceeding related to labor protection, financial assistance, public use, and trail use.

U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

The extensive opposition pleadings raise serious questions about the petition filed by CIND. Taking those questions into account, we cannot make the findings necessary to support the request for relief here. In the circumstances, we will deny the petition for exemption without prejudice to CIND's filing a full abandonment application under 49 U.S.C. 10903 and the Board's regulations at 49 CFR part 1152.

As seen from the chart below, CIND's and protestants' analyses of the facts have produced greatly divergent results.⁸

⁸ The chart uses CIND's evidence regarding year 3 of operations. As previously noted, CIND shows avoidable losses of \$531,015 for year 2, and \$595,494 for year 1.

	CIND's Evidence	Protestants' Evidence
Revenues		
Local Traffic Revenue	\$219,568	\$825,911
Overhead Traffic Revenue	373,936	512,223
Property Leases	20,000	20,000
Additional Adjustments	0	306,808
Total	613,504	1,664,942
Operating Expenses		
Crew Costs	180,835	136,469
Locomotive Leases	166,051	91,535
Trackage Rights	41,019	40,996
Switching Expense	64,009	64,009
Car Hire	<u>108,966</u>	<u>101,502</u>
Total Direct Expenses	560,880	434,511
Net Before Maintenance and Overhead	52,624	1,230,431
Maintenance	480,000	285,000
Property Tax/Insurance	45,639	0
Net Operating Profit (Loss)	(\$473,015)	\$945,431

CIND includes four items in its revenue figures — local traffic revenue, revenue from overhead traffic from TPW and from CERA, and unspecified lease revenue. Protestants include these items plus overhead traffic attributable to Conrail (based on pre-embargo traffic levels), additional projected traffic from several shippers, and additional local traffic from Anchor Glass. Protestants also add two revenue components, an adjustment to bring historical average revenue data to 1997 levels, and an adjustment for demurrage revenue. It is by no means clear that protestants' figures are correct; for instance, we do not readily accept shippers' promises to triple their traffic subject to "reasonable" service. However, protestants have raised significant questions regarding the accuracy and completeness of CIND's revenues, particularly with regard to the Anchor Glass local traffic and the Conrail overhead traffic.

CIND's data indicates that direct expenses will total \$560,880 in a normal year. Protestants calculate a total of \$434,511. In particular, protestants make significant adjustments to locomotive lease costs (by eliminating one locomotive) and to crew wages. Our examination of the various cost items raises questions as well. For instance, why does CIND project three trains a week in view of the low number of carloads it projects? Three trains a week seems reasonable only with the carload projections made by protestants. Also, the crew needs are a function of track condition, and the actual condition of the track is unclear. If the track were to be repaired to FRA Class 2 standards, fewer crews would be needed.

Petitioner's maintenance cost figure is nearly \$200,000 per year higher than that shown by protestants. Petitioner's maintenance cost for FRA Class 1 track is \$480,000, or about \$8,725 per route-mile. We note, however, that petitioner's tie replacement rate of 100 ties per mile is considerably higher than the rate we generally accept for FRA Class 1 track, which is usually around 27 ties per mile. Protestants use a composite tie replacement rate of 1,900 ties per year, based on 48 miles of FRA Class 2 track and 10 miles of FRA Class 1 track. Protestants' maintenance figures are flawed, however, because they do not include such items as track inspection, rail and other track material (OTM) replacement, surfacing, drainage, weed control, and signal and bridge maintenance. Neither party submits historical maintenance costs for the line, and we thus are unable to determine what expenditures have been made in the past several years of operations. In sum, we are unable to formulate a restatement of annual maintenance costs for the line.

Protestants exclude asserted property taxes and liability insurance from CIND's expenses because the railroad has refused to confirm its intention to sell the line. It is unclear on this record whether such expenses should be excluded. Should CIND file a full application for abandonment, it should address these matters and make clear its intentions regarding future ownership of the track and real property.

As noted, the parties are in serious disagreement regarding the condition of the line and the cost of required rehabilitation. CIND's evidence with respect to the condition of the line contains no workpapers or other documentation, and it thus is little more than unsupported assertions. Further, petitioner's inspection did not address the condition of the line between mileposts 39 and 63, which allegedly was rehabilitated to FRA Class 2 standards in 1995. We doubt that this 24-mile section deteriorated so much in 3 years that it currently is below FRA Class 1 standards, particularly considering the low traffic level on the line. Protestants present detailed inspection documents in support of their arguments regarding the state of the line. Protestants' tie inspection summary indicates that all sections have at least 36% non-defective ties, on average, generally indicating that the line meets or exceeds FRA Class 1 standards. Based on protestants' inspection, rehabilitation is needed only at certain specific locations. In addition, protestants point out that two letters from Mr. McDonald to CIND's president in 1995 and 1996 indicate that the line was generally in good condition and in need of only spot repairs. The record appears to support protestants' assessment that the line does not need any general rehabilitation to meet FRA Class 1 standards.

CIND's evidence with respect to rehabilitation costs contains omissions and inconsistencies. Significantly, as noted above, CIND's rehabilitation estimate does not address the 24-mile segment that allegedly was upgraded to FRA Class 2 standards not long ago. As stated, it is unlikely that this segment has deteriorated to the extent that it no longer meets FRA Class 1 standards. Because the 24-mile segment accounts for a significant amount of the total mileage (41%), total rehabilitation costs require an appropriate adjustment.

CIND has argued that the Board should consider rehabilitation costs necessary to improve the line to FRA Class 2 standards. We do not normally accept rehabilitation costs in excess of those necessary to bring a line up to FRA Class 1 standards unless there are circumstances that justify the additional cost. Because of the substantial investment required, there must be a justification based on savings in operating expenses before we can accept such an additional cost. CIND's assertions of probable higher operating costs at FRA Class 1 standards are not sufficient. Also, in calculating rehabilitation cost, CIND should elaborate on the availability of Local Rail Freight Assistance (LRFA) grant money to defray some of the cost and factor it in as appropriate. In addition, petitioner should address the matter of the damage caused by the recent installation of a fiber optics cable and the responsibility for repair of that damage. In sum, the record before us does not allow us to make a reasoned judgment respecting rehabilitation costs for the line.

Although not necessary for disposition of this proceeding, we will make some observations regarding NLV and opportunity costs. CIND's unit costs for NLV are not supported by any documentation such as quotations or other market-based data. Further, there is no explanation regarding the method used to determine the quality of rail and other track materials. Also, the existence of fiber optics cable easements generally has a negative impact on land value. Should CIND file an abandonment application, it should address these matters.

Protestants also have raised the issues of the status of the Westport Industrial Track and of CIND's intentions regarding the Conrail line over which it holds trackage rights. Should CIND choose to file an application for abandonment, it should address these matters as well.

In summary, on review of the record before us, we conclude that CIND has failed to meet its burden of establishing (and we are unable to find) that continued regulation of the subject abandonment proposal is not necessary to carry out the rail transportation policy, and either that the transaction is limited in scope or that regulation is not necessary to protect shippers from the abuse of market power. See Boston and Maine Corporation--Abandonment Exemption--In Hartford and New Haven Counties, CT, STB Docket No. AB-32 (Sub-No. 75X), et al., (STB served Dec. 31, 1996), slip op. at 5 (Boston and Maine); and Tulare Valley Railroad Company--Abandonment and Discontinuance Exemption--In Tulare and Kern Counties, CA, STB Docket No. AB-397 (Sub-No. 5X) (STB served Feb. 21, 1997), slip op. at 8 (Tulare Valley), aff'd in STB served Mar. 6, 1998.

The petition for exemption procedure for abandonment is primarily intended to be used to expedite decisions and minimize regulatory burdens in uncontested or noncontroversial proceedings. It should not be used in proceedings like the one before us where detailed analysis of revenues and

costs is necessary. Detailed revenue and cost analysis is generally reserved for the application process, which provides for a recordbuilding process and for Board analysis by requiring workpapers and other information needed to make an informed decision. This is not a case in which it is clear that revenue from local and overhead traffic is minimal compared to the cost of operating the line. Rather, a detailed analysis of revenue and cost evidence, and the resolution of various issues enumerated above, is required to determine the profit/loss of the line. Considering the pendency of the complaint proceeding and the pre-embargo use of the line by numerous shippers, CIND should have known that its abandonment proposal would be strenuously opposed, and it should have filed a formal application under section 10903. If CIND intends to pursue abandonment of its Shelbyville Line, it should file such an application and address the issues raised herein. See the Feb. 21, 1997, decision in *Tulare Valley*, supra, at 9, and compare *Minnesota Northern Railroad, Inc.--Abandonment Exemption--Between Redland Junction and Fertile, In Polk County, MN*, STB Docket No. AB-497 (Sub-No. 2X) (STB served Nov. 14, 1997), slip op. at 12.

Our denial of CIND's petition to abandon service over the Shelbyville Line via the exemption process moots labor protection, offer of financial assistance, and environmental issues, including the requests for public use and interim trails use. As such, we will not discuss those requests further.

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

It is ordered:

1. The reply filed by CIND on April 30, 1998, is rejected.
2. The petition for exemption is denied.
3. This decision is effective on the date of service.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary