

SERVICE DATE – LATE RELEASE JULY 15, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1022 (Sub-No. 1X)

ARIZONA & CALIFORNIA RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN SAN BERNARDINO AND RIVERSIDE COUNTIES, CA

Decided: July 15, 2009

By petition filed on March 12, 2009, Arizona & California Railroad Company (ARZC) sought an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 49.40-mile rail line (the line) between milepost 0.0 at Rice and milepost 49.4 at Ripley, in San Bernardino and Riverside Counties, CA. Notice of the exemption filing was served and published in the Federal Register on April 1, 2009 (74 FR 14862). By decision served June 30, 2009, the Board granted the abandonment, subject to an environmental condition and labor protective conditions. The abandonment exemption is scheduled to become effective on July 30, 2009. On July 10, 2009, BG&CM Railroad, Inc. (BG&CM) filed an offer of financial assistance (OFA) to purchase the entire line for \$1,830,000.¹ BG&CM's OFA will be rejected.

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); 49 CFR 1152.27(c)(1)(ii)(B). BG&CM asserts that it is financially responsible because its owner is the same individual who owns Railroad Materials Salvage Inc. (RMS)—a company that has more than \$2 million of time deposits in a bank.² But BG&CM appears to be incorporated separately, and it provides no evidence of its own financial means.

While BG&CM asserts that its owner “has committed unequivocally to cause funds equal to the purchase price of the rail line to be transferred from RMS to BG&CM to pay that purchase price” (BG&CM's OFA 3), it has not provided an agreement or any other evidence to verify that statement. Without verified assurances that RMS will finance BG&CM's OFA, evidence of RMS's financial means is irrelevant to the determination of whether BG&CM is financially responsible. As a result, BG&CM has not submitted evidence sufficient to determine that it is a financially responsible offeror. BG&CM's OFA, therefore, will be rejected without prejudice to refiling.

¹ BG&CM notes that there is a disparity between the amount offered and ARZC's valuation for the line (\$3,850,480) submitted in the petition for abandonment.

² BG&CM submits a letter from Casey Whitaker, Vice President, Landmark Bank to verify its claims (BG&CM's OFA App. 1).

It is ordered:

1. BG&CM's OFA is rejected without prejudice to refiling.
2. This decision is effective on its date of service.

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

Anne K. Quinlan
Acting Secretary