

Before the
SURFACE TRANSPORTATION BOARD

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STB Docket No. AB 1242

**HARTWELL FIRST UNITED METHODIST CHURCH
- ADVERSE ABANDONMENT AND DISCONTINUANCE -
THE GREAT WALTON RAILROAD COMPANY, INC., IN HART COUNTY, GA**

**REPLY OF
HARTWELL FIRST UNITED METHODIST CHURCH
TO JANUARY 2020 STATUS REPORT OF
THE GREAT WALTON RAILROAD COMPANY, INC.**

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Dated: February 20, 2020

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On July 31, 2020, The Great Walton Railroad Company, Inc. (“GWRC”) filed its January 2020 Status Report (the “January 2020 Status Report”) pursuant to the requirements of the Board’s January 31, 2018 Decision (the “2018 Decision”) in this proceeding. Hartwell First United Methodist Church (“Hartwell First” or the “Church”) is filing this Reply because it believes that the January 2020 Status Report goes beyond a mere status update and seeks to add additional arguments in connection with GWRC’s Petition for Declaratory Order (the “GWRC Petition”) filed in Docket No. AB 1242 (Sub-No. 1). Moreover, the January 2020 Status Report provides misleading and incomplete information to the Board relating to the current GWRC use of the Line (or lack thereof), and its efforts to obtain the property it would need to construct a new spur and runaround track.¹

¹ Although the Board’s 2018 Decision did not specifically mention the right of Hartwell First (or other parties) to file a reply, the Board’s regulations provide that “[a] party may file a reply or motion addressed to *any pleading* within 20 days after the pleading is filed with the Board...” 49 CFR §1104.13(a) (emphasis added).

DISCUSSION

As GWRC has previously reported, it has generally completed its rehabilitation of the Line (being the main line) (except for portion of the Line from Jackson Street to S. Forest Street which has not been repaired as it is still leased to TORCH).

As in past Status Reports and in the GWRC Petition, GWRC complains about how it has been “prevented” from constructing a new spur where the former north spur was located. January 2020 Status Report at 2-4.² But the fact of the matter is that GWRC “abandoned” the former north spur in 2008,³ and GWRC has not been able to establish, either in proceedings before the Georgia Public Service Commission or in the Georgia State Courts, that it has any right or title, either statutorily or otherwise, to the property where the spur would be built. Since the issues are matters of state law and are currently pending in the Georgia State Courts, it is not appropriate for the Board to address these issues.

GWRC’s utilization of the Line has not been limited due to litigation. (All of the litigation involves the location of the former north spur, and has nothing to do with the Line or the use of the Line.) Rather, utilization of the Line has been limited due to the fact that there is no business need to use the Line.

GWRC also reiterates its past assertions that service cannot be provided to Quality Services, LLC (“Quality”) safely without the use of the former runaround track. Again, this is not an appropriate subject for the Status Report. GWRC acknowledges that Quality has only

² As the Church has noted previously, discussion of the status of construction of a new spur and/or runaround is not technically responsive to the Board’s status request about the condition of “the Line” since the spur track would not be, and never was, part of the Line.

³ Although GWRC denies an intention to abandon the former north spur, the facts are otherwise. GWRC pulled up the tracks and the reusable crossties, and left the property for the Church to cleanup and to landscape the area. Because the former north spur was excepted track, GWRC did not require any STB authority to abandon and salvage the track.

recently resumed receiving rail service – only one car so far in 2020. January 2020 Status Report at 2; Anderson Supplemental Verified Statement, ¶2. GWRC fails to note that there had been a hiatus on shipments to Quality after June 2018.

The only use of the Line by GWRC has been for the storage of three dilapidated boxcars directly behind the Church. Although Mr. Anderson refers to use of the Line to provide “service to TTX.” Anderson Supplemental Verified Statement, ¶5. First, the boxcars are not marked as TTX cars and are believed to be GWRC’s cars. And in any event, even if this were car storage for TTX or another company, car storage is not common carrier service, and indeed, the long-term storage of the cars on the Line prevent it from being used for common carrier service. The railcars being stored on the Line are ones that previously had been stored by GWRC at or near Airline – approximately four miles to the east of downtown Hartwell. GWRC has chosen to move the cars unnecessarily over eight miles (to Hartwell and eventually back to Airline when the storage cars are to be removed or repositioned) and to keep a locomotive parked in downtown Hartwell – both an inefficient move, and an environmentally unfriendly one. (GWRC’s claimed concerns that the use of two locomotives to service to Quality would be inefficient and increase exhaust emissions should be taken with a grain of salt given GWRC’s current use of the Line which ignores both concerns.)

GWRC claims that although it can, and has used, the locomotive currently in Hartwell (No. 136) along with a second locomotive to avoid having to shove cars from Quality, it will be permanently removing that Locomotive No. 136 from the Bowersville-Hartwell Line.⁴ January

⁴ The possible use of two locomotives in lieu of a runaround was raised by the Church in reply to the GWRC Petition. GWRC’s response in the Status Report is not appropriate, and should not be considered as facts or argument in the Sub-No. 1 proceeding. The Church does not believe it necessary or appropriate to address in this Reply the relative efficiencies and environmental friendliness of the use of two locomotives as compared to the possible use of a

2020 Status Report at 3-4, Anderson Supplemental Verified Statement, ¶4. That may be true, but GWRC will still need to have a locomotive stationed at Airline or east of Airline that can reposition empties for Quality, and that can go to Bowersville to pull the four miles of storage cars onto the Bowersville-Hartwell Line since the alternative would be for GWRC to shove the storage railcars from Bowersville to Airline, and then pulling them back to create gaps for the road crossings. In fact, GWRC has positioned its Locomotive No. 454 at Airline which appears to be in anticipation if the removal of Locomotive No. 136.

In sum, the Board should note that there has been no significant change in the status of GWRC's rehabilitation or use of the Line since the July 2019 Status Report.

Respectfully submitted,



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runaround that would entail moving the Quality railcars over a mile east to downtown Hartwell, potentially blocking Webb Street or uncoupling the cars if more than two cars are being moved, setting the brakes on the cars, uncoupling the locomotive and running it around to the other end, recoupling the locomotive to the cars, potentially recoupling the cars to each other, before finally moving back west to Quality where the move started.

⁵ Mr. Hocky's office has moved. Please update the service list with Mr. Hocky's updated mailing address. The phone number and email address remain unchanged.

VERIFICATION

I, Joe M. Whittemore, verify under penalty of perjury that the foregoing Reply is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on February 20, 2020.



Joe M. Whittemore

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of February, 2020, I served a copy of the foregoing

Reply on the following persons by the method indicated:

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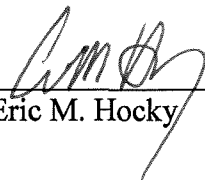
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