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February 24, 2023
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. AB 1311

**METRO-NORTH COMMUTER RAILROAD COMPANY – ADVERSE
DISCONTINUANCE OF TRACKAGE RIGHTS – HOUSATONIC RAILROAD
COMPANY**

**JOINT MOTION OF METRO-NORTH COMMUTER RAILROAD COMPANY AND
HOUSATONIC RAILROAD COMPANY FOR DISMISSAL OF
PETITION FOR ADVERSE DISCONTINUANCE OF HOUSATONIC RAILROAD
COMPANY’S TRACKAGE RIGHTS**

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Dated: February 24, 2023

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ADVERSE DISCONTINUANCE OF TRackage RIGHTS**

INTRODUCTION

Metro-North Commuter Railroad Company (“Metro-North”) is the owner of a rail line between milepost 0.0 at Beacon, New York and milepost 71.2¹ at the Connecticut/New York state line, a distance of 41.1 miles from Beacon, New York to Brewster, New York, in Dutchess and Putnam Counties (the “Line” or the “Beacon Line”). The Housatonic Railroad Company (“HRRC”) is a common carrier subject to 49 U.S.C. Subtitle IV, chapter 105 with trackage rights on the Line pursuant to a Trackage Rights Agreement dated January 19, 1995. HRRC is the sole operator on the Line.

On February 8, 2020, Metro-North filed a request for Partial Waiver of Discontinuance Regulations and for an Exemption under 49 C.F.R. § 1152.50(e)(5) and 49 U.S.C. § 10502(a) with the Surface Transportation Board (“Board”). The Board partially granted that request on April 20, 2021. *See Metro-North Commuter R.R. Co.- Adverse Discontinuance of Trackage*

¹ The connecting branches that form the Line also retain their original milepost designations used by the former New York Central and New York, New Haven & Hartford, which are milepost 12.8 and milepost 42.9.

Rights- Housatonic R.R. Co., Docket No. AB 1311 (STB served April 20, 2021). On April 30, 2021, Metro-North filed its Application for Adverse Discontinuance. HRRC has opposed Metro-North's Application. On September 23, 2022, the Parties asked the Board to hold this proceeding in abeyance because they were in settlement discussions to resolve the matter. The Board approved that abeyance on September 29, 2022.

Metro-North and HRRC have now settled this matter and HRRC has agreed, *inter alia*, to file a Notice of Exemption for discontinuance of its common carrier rail service on the Line and to consent to Metro-North's proposed trail use on the Line along with the transfer of the "reactivation right" on the Line from HRRC to Metro-North. Accordingly, the parties are jointly asking the Board to dismiss this adverse discontinuance proceeding. In accordance with the settlement agreement, HRRC will seek authority to discontinue its common carrier rail service, Metro-North will file the Notice of its abandonment of the Line in accordance with the terms of the ICC order approving Metro-North's acquisition of the line in 1995², and Metro-North will seek authority to implement trail use on the Line in accordance with the Board's regulations at 49 C.F.R. § 1152.29.

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² *Metro North Commuter R.R. Co.—Acquisition Exemption—The Maybrook Line*, ICC Finance Docket No. 32639 (Sub-No. 1) (Service Date Jan. 13, 1995).

WHEREFORE, Metro-North and HRRC hereby respectfully request the Board to dismiss the proceedings related to Metro-North's Application for Adverse Abandonment in this Docket No. AB 1311.

Respectfully Submitted,



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CERTIFICATION OF SERVICE

I hereby certify that I have on the 24th day of February 2023, caused to be served a copy of the foregoing Joint Motion of Metro-North Commuter Railroad Company and Housatonic Railroad Company for Dismissal of Petition for Adverse Discontinuance of Housatonic Railroad Company's Trackage Rights upon all parties of record in this proceeding.



Charles A. Spitulnik

Dated: February 24, 2023