



The McMillan Rail Shippers' Guide

Transfer and Discontinuance of Rail Trackage (Process)

A railway company has the right to dispose of or abandon railway lines it no longer wishes to operate. However, the company must maintain and publish a plan indicating whether it plans to continue operating or discontinue any of its rail lines within the next three years. No regulatory approval is required to transfer a railway line to a willing purchaser for continued operation. Apart from such a transfer, if a railway company wishes to abandon a railway line or no longer wishes to operate the railway line, it must follow several steps before it can do so.

First, a railway company must provide notice of the planned discontinuance in its three-year plan for a minimum of twelve months.

Second, the railway company must publicly advertise the rail line's availability for sale, lease or transfer for continued operation as a rail line, as well as the railway company's intent to discontinue the line absent transfer. The advertisement must include, among other things, the date by which parties must express their interest in writing.

Third, the railway company has six months following the deadline in its advertisement to negotiate an agreement with an interested party. Any party to a negotiation can apply to the Canadian Transportation Agency (Agency) to determine the net salvage value of the rail line, that is, the market value of the asset "less the costs associated with its disposal."

If no buyer expresses interest in continuing to operate the rail line, no agreement is reached or the transfer is not completed in accordance with the agreement, but the railway company still wants to stop operating the rail line, it must then offer to transfer the rail line to the applicable federal, provincial or municipal governments or urban transit authorities for any purpose at not more than the net salvage value of the line.

A transfer of the railway line at any point in this process relieves the railway company of its service obligations on the line. If the railway company completes this process and it does not result in a transfer, the railway company can file a notice of discontinuance with the Agency, thereby ending its obligations regarding that line.

To discuss the process, timeline, or any other questions regarding the discontinuance of railway lines, send an email or telephone a member of McMillan's Rail Transportation Group at the contacts below.

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