

SURFACE TRANSPORTATION BOARD

Docket No. FD 35523

CSX TRANSPORTATION, INC.—JOINT USE—LOUISVILLE & INDIANA RAILROAD
COMPANY, INC.

Decision No. 2

Decided: July 11, 2013

On June 14, 2013, CSX Transportation, Inc. (CSXT) and Louisville & Indiana Railroad Company, Inc. (L&I) (collectively, Applicants), filed an application pursuant to 49 U.S.C. § 11323 *et seq.*, seeking the Board's approval for joint use by CSXT and L&I of L&I's 106.5-mile railroad line between its connection with CSXT in Indianapolis, Ind., milepost 4.0±, and its connection with CSXT in Louisville, Ky., milepost 110.5± (the Line). In order to use the Line jointly with L&I, CSXT seeks to acquire a perpetual, non-exclusive freight railroad operating easement over the Line. As part of the proposed transaction, CSXT would fund an upgrade of the Line that would involve the following improvements: upgrade of the track, replacement of a bridge, modernization of the current dispatching system, and removal of weight restrictions to permit the handling of 286,000 pound gross weight on rail (GWOR) cars. Applicants state that they have entered into a Transaction Agreement, and upon closing, would enter into an Easement Agreement and Joint Use Operating Agreement, as well as other agreements.

Applicants submitted a copy of their Transaction Agreement, Easement Agreement, and Joint Use Operating Agreement with their application. Applicants indicated that portions of their proposed agreements are still under negotiation. On July 2, 2013, Applicants submitted Section 4 of Attachment C to the Joint Use Operating Agreement.¹ The provisions of this section address the compensation L&I would be required to pay CSXT for use of the upgraded track to handle cars weighing more than 263,000 pounds GWOR or taller than 18'6" above the top rail when CSXT is not involved in the movement of the car.

Because this compensation information is material to the Board's consideration of whether to accept or reject the application, for purposes of computing time periods under the Board's regulations, the Board will consider the application to be filed on July 2, 2013, and will issue a decision to accept or reject the application, as supplemented, no later than August 1, 2013. *See* 49 C.F.R. § 1180.4(c)(7). Applicants are reminded that if any agreements not yet submitted contain significant terms of the proposed transaction, they should be filed as expeditiously as possible.

¹ Applicants submitted a public version and an unredacted version under seal.

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

It is ordered:

1. The Board will publish a notice accepting or rejecting the application no later than August 1, 2013.
2. This decision is effective on the service date.

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