

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 714

INFORMATION REQUIRED IN NOTICES AND PETITIONS CONTAINING
INTERCHANGE COMMITMENTS

Digest:¹ The American Short Line and Regional Railroad Association seeks clarification of the Board's September 5, 2013 decision adopting final rules. The final rules do not change the substantive standards for approving rail line acquisitions with interchange commitments nor the timing of Board decisions for such acquisitions.

Decided: November 25, 2013

On September 5, 2013, the Board, with Vice Chairman Begeman dissenting, adopted final rules requiring that the following information be included in notices and petitions for exemption where the underlying lease or line sale includes an interchange commitment:²

1. A list of shippers that currently use or have used the line in question within the last two years;
2. The aggregate number of carloads those shippers specified in paragraph (1) originated or terminated (confidential);
3. A certification that the filing party has provided notice of the proposed transaction and interchange commitment to the shippers identified in paragraph (1);
4. A list of third party railroads that could physically interchange with the line sought to be acquired or leased;
5. An estimate of the difference between the sale or lease price with and without the interchange commitment (confidential);

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² Interchange Commitments are “contractual provisions included with a sale or lease of a rail line that limit the incentive or the ability of the purchaser or tenant carrier to interchange traffic with rail carriers other than the seller or lessor railroad.” Review of Rail Access and Competition Issues—Renewed Petition of the W. Coal Traffic League, EP 575, slip op. at 1 (STB served Oct. 30, 2007).

6. A change in the case caption so that the existence of an interchange commitment is apparent from the case title.

On September 23, 2013, the American Short Line and Regional Railroad Association (ASLRRA) filed a petition seeking clarification that the review of this additional new information required in the final rules will not create delays in the Board's review process. ASLRRA argues that, without such clarification, there will be uncertainty about the ability to close transactions without delay, which would impede new small railroad acquisitions.

The Board has a policy of carefully reviewing on a case-by-case basis the information and documentation filed with notices and petitions for exemption that include interchange commitments.³

The final rules do not change or restrict the types of transactions that are eligible for our exemption process, the substantive standards for reviewing rail line transactions with interchange commitments, or the timing of Board decisions on such transactions. While the final rules require the submission of additional information at the outset, our regulatory procedures otherwise have not changed as a result of these rules and our deadlines remain unchanged. The Board will continue to review all of the information that is provided in a notice to determine whether the notice process is appropriate for a given transaction.

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

It is ordered:

1. ASLRRA's petition for clarification is granted as discussed above.
2. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

³ Id., at 14 (deciding that the Board would consider the propriety of interchange commitments on a case-by-case basis).