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SERVICE DATE – LATE RELEASE SEPTEMBER 27, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 470X)

BNSF RAILWAY COMPANY—DISCONTINUANCE OF TRACKAGE RIGHTS
EXEMPTION—IN PEORIA AND TAZEWELL COUNTIES, ILL.

Decided: September 27, 2010

On June 4, 2010, the Board granted a petition for exemption in Docket No. AB 6 (Sub-No. 470X), permitting BNSF Railway Company (BNSF) to discontinue the trackage rights over approximately 3 miles of rail line owned by Peoria and Pekin Union Railway Company (P&PU) between Bridge Junction in Peoria and P&PU Junction in East Peoria, in Peoria and Tazewell Counties, Ill. That decision became effective on July 4, 2010.

The current dispute involves the ability of the Toledo, Peoria & Western Railway Corp. (TP&W) to interchange with BNSF. Until 1970, TP&W had directly interchanged traffic at East Peoria, Ill., with BNSF's predecessor, Burlington Northern Railroad Company (BN), via TP&W's bridge over the Illinois River. In 1970, the TP&W bridge was destroyed and has never been repaired. The trackage rights at issue in the exemption proceeding, which had not been used in 28 years, permitted BN to directly interchange traffic with TP&W at TP&W's East Peoria Yard via the P&PU bridge. Since 1982, BN/BNSF has continued to interchange traffic with TP&W indirectly via intermediate switching performed by another rail carrier (originally by P&PU, and then by Tazewell & Peoria Railroad, Inc. (TZPR)).

On June 29, 2010, TP&W filed a petition to revoke the exemption. TP&W asks the Board to revoke the exemption on the grounds that full regulation of BNSF's request to discontinue the trackage rights is necessary to carry out the rail transportation policy of 49 U.S.C. § 10101, and that BNSF has abused Board processes by misrepresenting the availability of an alternative means of direct interchange in Peoria. BNSF replied in opposition to the petition on July 16, 2010, and TZPR, which now leases the line at issue from P&PU, filed a reply, also in opposition to the petition, on July 19, 2010.

The petition to revoke raises issues that require further consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. § 10502(d).

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

It is ordered:

1. Under 49 U.S.C. § 10502(d), a proceeding is instituted.
2. This decision is effective on its service date.

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