

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34182

ISG CLEVELAND WORKS RAILWAY COMPANY—ACQUISITION AND OPERATION
EXEMPTION—RAIL LINES OF THE CUYAHOGA VALLEY RAILWAY COMPANY AND
RIVER TERMINAL RAILWAY COMPANY

PETITION FOR STAY

Decided: May 6, 2002

By notice filed on April 29, 2002, ISG Cleveland Works Railway Company (CWRO), a noncarrier and indirect wholly owned subsidiary of International Steel Group, Inc. (ISG), invokes the class exemption at 49 CFR 1150.31 to allow it to acquire the railroad lines and trackage rights of The Cuyahoga Valley Railway Company (CVRC) and River Terminal Railway Company (RTRC), Class III rail carrier subsidiaries of LTV Steel Company, Inc. (LTV).¹ CWRO would become a Class III rail carrier after consummation of this transaction, which, absent a stay, CWRO states will occur on May 7, 2002.²

On May 3, 2002, United Transportation Union (UTU) filed a petition to revoke the exemption for lack of jurisdiction.³ Simultaneously, UTU petitioned for a stay of the effective date of the

¹ CVRC and RTRC own lines within and in the vicinity of LTV's former Cleveland Works steel plant, which is now owned by ISG.

² ISG filed on April 29, 2002, a notice of exemption in STB Finance Docket No. 34201, International Steel Group Inc.—Continuance in Control Exemption—ISG South Chicago & Indiana Harbor Railway Company and ISG Cleveland Works Railway Company, to continue in control of CWRO and a nonparty carrier when CWRO becomes a carrier.

³ UTU represents employees of CVRC and RTRC. UTU contends that the transaction is governed by 49 U.S.C. 11323, and not by 49 U.S.C. 10901, the section to which the class exemption invoked by CWRO applies, because CWRO would be effectively acquiring control of the incumbent carriers.

UTU also argues in the alternative that CWRO itself has not complied with the 60-day notice requirements of 49 CFR 1150.32(e), though WLR Acquisition Corp. did provide notice.

exemption in the event the Board is unable to render a timely decision on its petition to revoke. CWRO replied on May 6, 2002.

In light of the issues raised, a brief postponement of the effective date—until the Board has an opportunity to consider the issues raised in the petition to revoke—appears to be appropriate. The Board expects to act promptly on that petition. It should be emphasized that this brief postponement is issued for “housekeeping” purposes only, to permit the orderly consideration of the arguments raised.

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

It is ordered:

1. The effective date of the notice of exemption is stayed pending further action of the Board.
2. This decision is effective on its service date.

By the Board, Linda J. Morgan, Chairman.

Vernon A. Williams
Secretary