

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34177

IOWA, CHICAGO & EASTERN RAILROAD CORPORATION—ACQUISITION
AND OPERATION EXEMPTION—LINES OF I&M RAIL LINK, LLC

PETITIONS FOR STAY

Decided: June 26, 2002

On June 7, 2002, Iowa, Chicago & Eastern Railroad Corporation (IC&E) filed a notice of exemption under the class exemption at 49 CFR 1150.31 to allow it to acquire and operate the rail lines and assets of I&M Rail Link, LLC (IMRL), a Class II carrier.¹ In its notice, IC&E states that it is a noncarrier subsidiary of Cedar American Rail Holdings, Inc. (Holdings), which is a wholly owned subsidiary of Dakota, Minnesota & Eastern Railroad Corporation (DM&E). IC&E indicates in its notice that it intends to consummate its acquisition of IMRL's lines and commence operations on or after June 28, 2002, and that DM&E and Holdings expect to file an application soon, pursuant to 49 U.S.C. 11323(a)(3) and 49 CFR 1180.2(c), to continue in control of IC&E once IC&E acquires the IMRL lines and becomes a rail carrier.

On June 13, 2002, Brotherhood of Locomotive Engineers, Brotherhood of Maintenance of Way Employees, Brotherhood of Railroad Signalmen, International Association of Machinists, the International Brotherhood of Electrical Workers, and Transportation Communications International Union (collectively Cooperating Labor Organizations or CLO) jointly filed a petition to stay the transaction (designated CLO-1) and a petition to revoke IC&E's exemption (designated CLO-2). On June 14, 2002, Iowa Traction Railroad Company filed a petition for stay and investigation, Ag Processing Inc., filed a petition to stay and revoke the exemption (designated AGPR-1), and Iowa Department of Transportation filed a statement in opposition, asking that the Board stay the exemption and establish a procedural schedule.

¹ IC&E filed a notice of intent of its proposal on May 24, 2002, as required under our exemption rules at 49 CFR 1150.35(a). IC&E states that it will acquire all of IMRL's existing rail lines, which extend approximately 1,125 miles between Chicago, IL, Kansas City, MO, and Minneapolis/ St. Paul, MN, as well as approximately 275 miles of incidental trackage rights over line segments of other carriers.

On June 24, 2002, IC&E replied to the petitions for stay and, by separate correspondence, advised the Board that, to allow the parties time to resolve certain issues regarding access to the Chicago terminal, IC&E will not consummate its acquisition of the subject lines before 5 p.m. Central Daylight Time on July 26, 2002. In view of its extension of the consummation date, IC&E asks the Board to postpone a decision on the pending stay petitions until 3 to 7 days after IC&E advises the Board of the resolution of the access issue or by July 25, 2002, whichever is earlier.

In light of the issues raised, the reported attempts to resolve some of those issues, and IC&E's announced postponement of its consummation of the transaction until July 26, 2002, a postponement of the effective date is appropriate. It should be emphasized that this postponement is issued for "housekeeping" purposes only, to permit the orderly consideration of the arguments raised in connection with any issues that are not resolved. While IC&E has committed not to consummate the transaction before July 26, the housekeeping stay would preserve the Board's opportunity to stay the effectiveness of the exemption, if appropriate, when the merits of the stay requests are considered. The Board expects to issue a decision on the stay requests on or before July 25, 2002.

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 exemption in this proceeding is stayed until July 26, 2002.
2. This decision is effective on its service date.

By the Board, Linda J. Morgan, Chairman.

Vernon A. Williams
Secretary