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SERVICE DATE - FEBRUARY 12, 1998

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-532X]

The Cincinnati Terminal Railway Company¹ (Indiana & Ohio Railway Company, Successor)--Discontinuance of Service Exemption--In Cincinnati, Hamilton County, OH

The Cincinnati Terminal Railway Company (CTER) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances, to discontinue service under a lease that has been terminated.² The lease was limited to certain overhead movements over a line of railroad owned by the Norfolk and Western Railway Company (NW) that traveled the entire Riverfront Running Track, extending between Survey Station 84+ 80± and Survey Station 4+ 20 ± (former milepost LM-119 + 1756 feet ±), a distance of

¹ The Cincinnati Terminal Company was merged into IORY in a transaction that was the subject of a notice of exemption in RailTex, Inc., Indiana & Ohio Rail Corp., Cincinnati Terminal Railway Company, Indiana and Ohio Railroad, Inc., Indiana & Ohio Railway Company and Indiana & Ohio Central Railroad, Inc.--Corporate Family Transaction Exemption, STB Finance Docket No. 33530 (STB served Jan. 9, 1998). We have accepted the notice of exemption as filed with an amended caption to reflect CTER's merger into Indiana and Ohio Railway Company because no party will be prejudiced and because the lease had terminated while CTER was still the party in interest.

² See The Cincinnati Terminal Railway Co.--Lease Exemption--Norfolk and Western Railway Company, Finance Docket No. 32519 (ICC served Aug. 31, 1994). The lease, dated June 24, 1994, became effective on July 1, 1994, and was later terminated by NW on May 31, 1996, effective July 1, 1996.

approximately 1.5 miles, in Cincinnati, Hamilton County, OH.³ The line traverses United States Postal Service Zip Codes 45202 and 45203. There are no stations on the line.

CTER has certified that: (1) no local traffic has moved via CTER pursuant to the lease rights for at least 2 years; (2) any overhead traffic that previously moved over the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.⁴

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on

³ Concurrent filings were made in: STB Docket No. AB-290 (Sub-No. 184X), Norfolk and Western Railway Company--Abandonment Exemption--In Cincinnati, Hamilton County, OH, STB Docket No. AB-167 (Sub-No. 1180X), Consolidated Rail Corporation--Discontinuance of Trackage Rights Exemption--in Cincinnati, Hamilton County, OH; and STB Docket No. AB-31 (Sub-No. 30), Grand Trunk Western Railroad Incorporated--Adverse Discontinuance of Trackage Rights Application--A Line of Norfolk and Western Railway Company in Cincinnati, Hamilton County, OH.

⁴ No environmental or historical documentation is required here, pursuant to 49 CFR 1105.6(b)(3).

March 14, 1998,⁵ unless stayed pending reconsideration. Petitions to stay that do not involve a formal expression of intent to file an OFA under 49 CFR 1152.27(c)(2),⁶ must be filed by February 23, 1998. Petitions to reopen must be filed by March 4, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Karl Morrell, Ball Janik, LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Decided: February 6, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

⁵ Because this is a discontinuance proceeding and not an abandonment, there is no need to provide for trail use/rail banking or public use conditions.

⁶ Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$900. See 49 CFR 1002.2(f)(25).