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SERVICE DATE – MAY 25, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35220

UNION PACIFIC RAILROAD COMPANY, IOWA INTERSTATE RAILROAD, LTD.,
RED GIANT OIL COMPANY, AND MIDWEST WALNUT COMPANY OF IOWA—
ACQUISITION & DISCONTINUANCE OF SERVICE EXEMPTION—
IN COUNCIL BLUFFS, IOWA

Decided: May 25, 2010

This decision provides a date certain by which Union Pacific Railroad Company (UP), Iowa Interstate Railroad Ltd. (IAIS), Red Giant Oil Company (Red Giant), and Midwest Walnut Company of Iowa (Midwest Walnut) (collectively, petitioners) must file any supplement to their petition.

By petition filed on October 20, 2009, UP, IAIS, Red Giant, and Midwest Walnut filed a joint petition requesting an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10902 and “any other applicable regulatory requirements” for IAIS to acquire UP’s operating rights and full common carrier obligations with respect to: (1) UP’s Great Western Industrial Lead (UP Line) from milepost 503.6 to milepost 504.05, a distance of approximately 0.45 miles, in Pottawattamie County, Iowa; and (2) an associated connecting track (Connecting Track), which is approximately 900 feet and connects the UP Line to IAIS’ main line (IAIS Line). Petitioners also requested exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903, for UP to discontinue operations over the 0.45-mile UP Line and Connecting Track, as petitioners assert Red Giant will acquire UP’s interest in the right-of-way and track.¹

By letter filed on January 13, 2010 (January filing), petitioners requested that the Board defer a decision on this matter until the Board had the opportunity to consider supplemental information that petitioners expected to submit within 30 days from the date of the January

¹ In a previous petition, Docket Nos. AB 33 (Sub-No. 274X) and AB 414 (Sub-No. 4X), UP and IAIS jointly filed for exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to permit: (1) UP to abandon and discontinue service over the UP Line; (2) IAIS to discontinue trackage rights over the UP Line; and (3) UP to discontinue its overhead trackage rights over the IAIS Line from milepost 486.8 to milepost 488.0, a distance of 1.2 miles, in Pottawattamie County. The petition was denied by decision served on December 12, 2008, because of UP’s and IAIS’ failure to demonstrate that the interests of the 2 shippers utilizing the line, Red Giant and Midwest Walnut, would be protected under the proposed substitute arrangement.

filing. Petitioners indicated that their supplemental filing would address the following issues: (1) the procedural steps to be followed for the transfer of property interests and easements; (2) supplemented labor notification; (3) clarification of inconsistencies contained in the petition; (4) clarification of the interests and obligations retained by the various petitioners; (5) further definition regarding the responsibilities of any parties with the common carrier obligation; (6) the interests to be transferred; and (7) the interests to be retained.

Since January 13, 2010, there have been no additional filings in this proceeding. Given the length of time that the Board has held this proceeding open, petitioners must submit any supplemental information by June 14, 2010. Should petitioners elect not to submit a supplemental filing within the allotted time frame, the Board will resolve this proceeding based upon the existing record.

It is ordered:

1. UP, IAIS, Red Giant, and Midwest Walnut must submit any supplemental information by June 14, 2010. If the supplemental information is not filed, the Board will resolve this proceeding based upon the existing record.

2. This decision is effective on its service date.

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