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SERVICE DATE - MARCH 28, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33372]

Lake State Railway Company--Acquisition and Operation

Exemption--Detroit & Mackinac Railway Company

Lake State Railway Company (LSR), a Class III railroad, has filed a notice of exemption to acquire and operate 275 miles of rail line between Kawkawlin and Gaylord, MI, and between Pinconning and Rogers City, MI, from the Detroit & Mackinac Railway Company (D&M), as follows: (1) the Pinconning Subdivision, from approximately milepost 5.0 to milepost 11; (2) the Mackinac Subdivision, from approximately milepost 116 to the end of the line at milepost 122; (3) the Huron Subdivision, from approximately milepost 16 to milepost 151.25, including the Pinconning crossover; (4) the Rogers City Branch from milepost 0.0 to milepost 11.0; and (5) the Hillman Branch and the Alabaster Branch.¹

¹ LSR currently leases and operates the rail lines that are the subject of this notice from D&M. See Lake State Railway Company--Lease and Operation Exemption--Detroit and Mackinac Railway Company, Finance Docket No. 32012 (ICC served Feb. 27, 1997).

The transaction was to be consummated on or after the effective date of the exemption (7 days after the notice of exemption was filed), but no later than April 16, 1997.

LSR states that: (i) the acquisition will not place LSR in control of any connecting railroads; (ii) the acquisition is not part of a series of anticipated transactions that would place LSR in control of any connecting railroad; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time.

The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33372, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kelvin J. Dowd, Esq., Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

Decided: March 24, 1997.

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

Vernon A. Williams

Secretary