

35042

SERVICE DATE - OCTOBER 1, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34536]

Indiana & Ohio Central Railroad, Inc.–Acquisition and Operation Exemption–CSX  
Transportation, Inc.

Indiana & Ohio Central Railroad, Inc. (IOCR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire and operate, pursuant to an agreement with CSX Transportation, Inc. (CSXT), approximately 107 miles of rail line consisting of the Cincinnati Terminal Subdivision between NA Tower, OH, milepost BB 7.5 and Oakley, OH, milepost BB 12.4, and the Midland Subdivision between Oakley, milepost BB 12.4, and Columbus, OH, milepost BR 114.6.<sup>1</sup>

Because IOCR's projected annual revenues will exceed \$5 million, IOCR certified to the Board on August 12, 2004, that it sent the required notice of the transaction on August 12, 2004, to the national offices of all labor unions representing employees on the line and posted a copy of the notice at the workplace of the employees on the affected lines on August 12, 2004. See 49 CFR 1150.42(e).

The transaction is scheduled to be consummated on October 16, 2004, which is 60 days after IOCR's certification to the Board that it has complied with the Board's rule at 49 CFR 1150.42(e).

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<sup>1</sup> IOCR will lease the right-of-way from CSXT.

If the verified 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.<sup>2</sup>

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34536, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Gary A. Laakso, IOCR Vice President Regulatory Counsel, 5300 Broken Sound Boulevard, N.W., Boca Raton, FL 33487; and Louis E. Gitomer, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

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<sup>2</sup> On September 13, 2004, the Brotherhood of Locomotive Engineers & Trainmen (BLET) filed a protest asking the Board to reject IOCR’s notice and a notice to be filed in STB Finance Docket No. 34540, Columbus & Ohio River Railroad–Acquisition Exemption–Lines of CSX Transportation, Inc., for another shortline carrier to operate through lease and/or purchase approximately 114 miles of CSXT’s rail line between Columbus and Cambridge and Newark and Mt. Vernon, Ohio. On September 15, 2004, the United Transportation Union (UTU) filed a pleading titled as a petition to revoke, seeking relief identical to that sought by BLET.

On September 24, 2004, an amended petition to revoke was filed by UTU, and the notice of exemption was filed in STB Finance Docket No. 34540. The Board will address the filings by BLET and UTU in a subsequent decision.

Decided: September 24, 2004.

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

Vernon A. Williams

Secretary