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SEC

SERVICE DATE – LATE RELEASE DECEMBER 21, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34536

INDIANA & OHIO CENTRAL RAILROAD, INC.–ACQUISITION AND OPERATION  
EXEMPTION–CSX TRANSPORTATION, INC.

Decided: December 21, 2004

On September 1, 2004, the Indiana & Ohio Central Railroad, Inc. (IOCR), a Class III rail carrier, filed a verified notice of exemption under 49 CFR 1150.41 to operate under a lease from 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 12.4, and Columbus, OH, milepost BR 114.6. Notice of the exemption was served and published in the Federal Register (69 FR 58999) on October 1, 2004.

On September 13, 2004, the Brotherhood of Locomotive Engineers & Trainmen (BLET) filed a protest to the exemption notice. On September 15, 2004, the United Transportation Union (UTU) filed a petition to revoke the exemption. UTU filed an amended petition to revoke on September 24, 2004, in which UTU also sought discovery from IOCR under 49 CFR 1121 and 1114 to obtain all leases and other written arrangements between IOCR and CSXT that relate to the transaction described in IOCR's notice of exemption. On October 1, 2004, IOCR replied to BLET's protest and UTU's petition to revoke and opposed UTU's discovery request.

On November 5, 2004, UTU filed a motion to compel IOCR to produce the materials it requested with its amended petition to revoke. By letter filed November 15, 2004, IOCR responded to UTU's motion to compel.

By decision served on November 23, 2004, UTU's motion to compel was granted. The November 23 decision also set a procedural schedule that provided the following: (1) discovery must be completed by December 3, 2004; (2) UTU's supplement to its petition to revoke is due by December 20, 2004; and (3) IOCR's reply is due by January 3, 2005.

By motion filed December 17, 2004, UTU requests an extension of time until January 18, 2005, to supplement its petition to revoke. UTU states that it has received redacted copies of the documents sought in discovery with an offer from IOCR to provide unredacted copies once a

protective order is in place.<sup>1</sup> UTU states that it needs the additional time to receive the unredacted documents and to prepare its supplemental filing. UTU also requests an additional 15 days, from January 18, 2005, until February 2, 2005, for IOCR to file its reply. UTU states that IOCR and CSXT do not object to the extension request. The extension request is reasonable and will be granted.

It is ordered:

1. The due date for UTU's supplement to its petition to revoke is extended until January 18, 2005.
2. The due date for IOCR's reply is extended until February 2, 2005.
3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary

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<sup>1</sup> On December 16, 2004, IOCR filed a motion for protective order pursuant to 49 CFR 1104.14(b), to protect the confidential information being sought in discovery. The motion will be addressed in a separate decision.