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SERVICE DATE – JULY 29, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35844

STILLWATER CENTRAL RAILROAD, LLC—ACQUISITION EXEMPTION CONTAINING  
INTERCHANGE COMMITMENT—OKLAHOMA DEPARTMENT OF TRANSPORTATION

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:<sup>1</sup> This decision allows Stillwater Central Railroad, LLC, a Class III rail carrier, to acquire from the state of Oklahoma and continue to operate over approximately 97.5 miles of rail line without providing employees the full 60-day advance notice of the transaction because no employees would be adversely affected by the transaction.

Decided: July 28, 2014

On June 30, 2014, Stillwater Central Railroad, LLC (SLWC) filed a request for a waiver of the 60-day labor notice requirement of 49 C.F.R. § 1150.42(e). The waiver request relates to a verified notice of exemption concurrently filed by SLWC in this docket under 49 C.F.R. § 1150.41, in which SLWC certifies that its current annual revenues exceed \$5 million. Given this certification, at least 60 days before the concurrently filed notice of exemption can become effective, SLWC is required (absent the granting of a waiver) to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so.

SLWC seeks a waiver of the full 60-day labor notice requirement, asserting that the requirement serves no useful purpose here given that the underlying transaction would simply convert SLWC's lease of the line to an ownership interest. SLWC states that, while ODOT currently owns the line, ODOT is a noncarrier and therefore (1) no ODOT employees would be affected by the transaction because no ODOT employees perform operations or maintenance on the line, and (2) no SLWC employees would be affected because SLWC will continue to provide the same service and maintenance on the line as it has since 1998. No opposition to SLWC's waiver request has been filed.

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<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

## BACKGROUND

SLWC filed its verified notice of exemption<sup>2</sup> to acquire—from the state of Oklahoma (the State), acting through the Oklahoma Department of Transportation (ODOT)—and continue to operate over 97.5 miles of rail line between milepost 438.9 in Sapulpa, Okla., and milepost 536.4 in eastern Oklahoma City, Okla. SLWC states that, pursuant to a lease with ODOT, it has been the freight operator of the line since 1998,<sup>3</sup> and will continue to provide the same common carrier service upon consummation.<sup>4</sup>

## DISCUSSION AND CONCLUSIONS

The purpose of our notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation. See Acquis. of Rail Lines Under 49 U.S.C. 10901 & 10902—Advance Notice of Proposed Transactions, 2 S.T.B. 592 (1997). The Board takes seriously the requirements of the rule. However, in this case the record indicates that no employees would be adversely affected by a waiver of the notice requirement. SLWC is currently the exclusive freight operator of the line, and it will continue to operate as the exclusive freight carrier of the line upon consummation of the transaction. Because no employees would be adversely affected by waiver of the 60-day notice period, we will grant the waiver request, thereby allowing the related exemption authority permitting SLWC to acquire and operate over the line to become effective on July 30, 2014.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

### It is ordered:

1. SLWC's request for waiver of the 60-day notice requirement is granted, and the exemption authority to acquire and operate over the line is effective July 30, 2014.

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<sup>2</sup> Notice of the exemption was served and published in the Federal Register on July 16, 2014 (79 Fed. Reg. 41,626).

<sup>3</sup> See Stillwater Cent. R.R.—Lease & Operation Exemption—Okla. Dep't of Transp., FD 33621 (STB served July 10, 1998).

<sup>4</sup> The State, by and through ODOT, acquired the line from The Burlington Northern and Santa Fe Railway Company (now known as BNSF Railway Company (BNSF)). According to SLWC, the agreement between ODOT and BNSF contains a provision regarding an interchange commitment that ODOT is contractually obligated to assign to any future purchaser of the line. Pursuant to the Board's new rules established in Information Required in Notices & Petitions Containing Interchange Commitments, EP 714 (STB served Sept. 5, 2013), SLWC has submitted additional information about the interchange commitment as required by 49 C.F.R. § 1150.43(h)(1).

2. This decision is effective on its date of service.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.