

28088

SERVICE DATE - AUGUST 6, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33430]

CBEC Railway, Inc.--Trackage Rights Exemption--Great Western Railway Company of Iowa, L.L.C.

Great Western Railway Company of Iowa, L.L.C. (GWRI), has agreed to grant overhead trackage rights to CBEC Railway, Inc. (CBEC), over GWRI's trackage between milepost 1.72 and milepost 2.12, in the vicinity of Council Bluffs, IA.<sup>1</sup>

The trackage rights agreement was expected to be executed on or about July 10, 1997,<sup>2</sup> but the transaction is not expected to be consummated until September 1997, when construction and rehabilitation of CBEC's line is completed and rail operations are commenced over CBEC's track. The purpose of the trackage rights is to improve operational efficiencies between CBEC and GWRI and to eliminate duplicative facilities by connecting two segments of CBEC track and right-of-way on either end of GWRI's Wabash Rail Yard.

---

<sup>1</sup> The track is adjacent to GWRI's Wabash Rail Yard and connects track owned by CBEC.

<sup>2</sup> Concurrent with the filing of the notice of exemption, CBEC filed a motion for protective order pursuant to 49 CFR 1104.14, with respect to the trackage rights agreement between CBEC and GWRI. CBEC submitted the trackage rights agreement under seal stating that it is a confidential agreement that prohibits any party from disclosing the material terms to the public without the prior written consent of the other party. By decision served July 28, 1997, CBEC's motion for protective order was granted.

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.

This notice is filed under 49 CFR 1180.2(d)(7). 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 stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33430, 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 Thomas W. Wilcox , Donelan, Cleary, Wood & Maser, P.C., 1100 New York Avenue, N.W., Suite 750, Washington, DC 20005.

Decided: July 29, 1997.

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

Vernon A. Williams

Secretary