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SERVICE DATE - JULY 9, 1999

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33751]

Grand Trunk Western Railroad Incorporated and The Baltimore and Ohio Chicago Terminal Railroad Company--Joint Relocation Project Exemption--in Harvey, IL

Grand Trunk Western Railroad Incorporated (GTW), a subsidiary of Canadian National Railway Company, and The Baltimore and Ohio Chicago Terminal Railroad Company (B&OCT), a subsidiary of CSX Transportation, Inc., have jointly filed a notice of exemption under 49 CFR 1180.2(d)(5) to enter into a project to relocate lines of railroad in Harvey, IL.¹ The joint relocation project will facilitate more efficient operations and allow for the removal of unnecessary and duplicative trackage. The transaction was expected to be consummated on or after June 18, 1999, the effective date of the exemption.

GTW connects with the Illinois Central Railroad Company's (IC) main line adjacent to Markham Yard at Harvey. GTW and IC plan to improve their connection by constructing an additional connection within the existing right-of-way. B&OCT has a line parallel to GTW's line adjacent to the yard, crossing it just west of IC's line and running underneath IC's line. In order to construct the additional connection between GTW and IC,

¹ A redacted version of a Trackage Rights Agreement and a Supplement to Interlocking Agreement between GTW and B&OCT were filed with the notice of exemption. The full version of the agreements was concurrently filed under seal along with a motion for a protective order. The motion was granted and a protective order was served in this proceeding on June 21, 1999.

a segment of B&OCT's line will need to be removed. The carriers will construct the necessary connections between their lines to permit B&OCT trains to move from B&OCT's line onto GTW's line.

Under the joint project, GTW and B&OCT agree to the following:

(1) GTW will grant B&OCT the right to operate, in non-exclusive overhead freight service, its trains and equipment with its own crews over the segment of GTW's railroad lines from GTW milepost 23.7 to milepost 22.5, South Bend Division; (2) GTW will grant B&OCT the right to use the new wye connection between GTW and IC for the purpose of B&OCT's access to IC; (3) B&OCT will abandon its line between mileposts 4.0 and milepost 2.6, Chicago Heights Subdivision, and grant to GTW a perpetual easement to the underlying right-of-way between B&OCT mileposts 3.6 and 3.1 for GTW's construction of a new connection to Markham Yard; (4) GTW will install turnouts and connecting tracks east of the current GTW/B&OCT rail crossing from GTW's south main line west of Vincennes Road, near GTW milepost 23.7, South Bend Division, to the GTW/B&OCT property line, as well as west of the current GTW/B&OCT rail crossing from GTW's north main line west of 150th Street in Harvey, near GTW milepost 22.5, South Bend Division, to the GTW/B&OCT property line; (5) B&OCT will realign its trackage east of the current GTW/B&OCT rail crossing west of Vincennes Road, at or near B&OCT milepost 4.0, Chicago Heights Subdivision, to the GTW/B&OCT property line, and west of the current GTW/B&OCT rail crossing west of 150th Street, at or near B&OCT milepost 2.6, Chicago Heights Subdivision, to the GTW/B&OCT property line.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into a new territory. See City of Detroit v. Canadian National Ry. Co., et al., 9 I.C.C.2d 1208 (1993), aff'd sub nom., Detroit/Wayne County Port Authority v. ICC, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. See D.T.&I.R.--Trackage Rights, 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.--Trackage Rights--BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.--Lease and Operate, 360 I.C.C. 653 (1980).

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. 33751, 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 Robert P. vom Eigen, 888 16th Street, N.W.,

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Washington, DC 20006; and Charles M. Rosenberger, CSX Transportation, Inc., 500
Water Street, Jacksonville, FL 32202.

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Decided: June 30, 1999.

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

Vernon A. Williams

Secretary