

29907

SERVICE DATE - JANUARY 28, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33704]

Pioneer Railcorp and Wabash & Western Railway Co.--Acquisition of Control Exemption--
Michigan Southern Railroad Co., Inc.

Pioneer Railcorp (Pioneer), a noncarrier holding company, and Wabash & Western Railway Co. (WAB), a Class III rail carrier, have jointly filed a verified notice of exemption to acquire, through stock purchase, Michigan Southern Railroad Co., Inc., (MSR), a Class III rail carrier, operating in the States of Michigan and Indiana.¹

The earliest the transaction could be consummated was January 6, 1999, the effective date of the exemption (7 days after the exemption was filed).

As indicated by Pioneer and WAB in their notice, pursuant to the original lease agreement between WAB, MSR, Gordon D. Morris, and Morris Leasing Co., Ltd. (MLSC), WAB has the option to purchase the outstanding stock of MSR, and the rail assets of MLSC would be transferred to MSR prior the closing of the stock purchase. WAB will continue to lease and operate the lines of MSR as well as operate under the name of Michigan Southern Railroad.²

¹ See Morris Leasing Co., Ltd. and Michigan Southern Railroad, Inc.--Acquisition and Operation Exemption--Lines of Consolidated Rail Corporation, STB Finance Docket No. 33265 (STB served Nov. 13, 1996).

² See Wabash & Western Railway Co.--Lease and Operation Exemption--Morris Leasing
(continued...)

WAB is a subsidiary of Pioneer Railcorp (Pioneer), which directly controls thirteen existing shortline rail carriers.³ Pioneer will indirectly control MSR upon completion of this transaction.

Pioneer and WAB state that: (i) the railroads do not connect with each other; (ii) the transaction is not part of a series of anticipated transactions that would connect the railroads with each other; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

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.

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.

²(...continued)
Co., Ltd., and Michigan Southern Railroad, Inc., STB Finance Docket No. 33306 (STB served Dec. 24, 1996).

³ See Pioneer Railcorp--Continuance in Control Exemption--Pioneer Industrial Railway Co., STB Finance Docket No. 33550 (STB served Feb. 20, 1998).

STB Finance Docket No. 33704

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33704, 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 all pleadings must be served on Daniel A. LaKemper, Esq., 1318 S. Johanson Road, Peoria, IL 61607.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: January 21, 1999.

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

Vernon A. Williams

Secretary