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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35709]

Pacific Imperial Railroad, Inc.—Change in Operator Exemption—Rail Line of San Diego and Arizona Eastern Railway Company

Pacific Imperial Railroad, Inc. (PIR), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to change operators from San Diego & Imperial Valley Railroad Company, Inc. (SDIY)¹ to PIR over a 70.01-mile rail line between milepost 59.60 in Division, Cal., and milepost 129.61 in Plaster City, Cal. (Desert Line).

The Desert Line is owned by San Diego and Arizona Eastern Railway Company (SD&AE). The change in operators for the line is being accomplished through SDIY's assignment of its authority to operate the Desert Line to PIR, with the consent of SD&AE and its parent, San Diego Metropolitan Transit Development Board. This change in operators is exempt under 49 C.F.R. § 1150.31(a)(3).²

¹ SDIY was authorized to operate the Desert Line in San Diego & Imperial Valley Railroad—Exemption from 49 USC 10901 & 11301, FD 30457 (ICC served Aug. 17, 1984).

² To qualify for a change of operators exemption, an applicant must give notice to shippers on the line. See 49 C.F.R. § 1150.32(b). In a letter filed January 2, 2013, PIR certified to the Board that, at present, there are no shippers on the Desert Line; therefore, no service of this notice is required on shippers.

PIR certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier. However, because its projected annual revenues will exceed \$5 million, PIR certified to the Board that, pursuant to the notice requirements of 49 C.F.R. § 1150.32(e), it has provided notice to employees on the affected line and that notice was not served on the national offices of any rail labor union because no employees on the affected line belonged to a rail labor union. Under 49 C.F.R. § 1150.32(e), this exemption cannot become effective until March 3, 2013, 60 days after the latest certification that PIR provided the required notice to employees.³

If the verified 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 effectiveness of the exemption. Petitions for stay must be filed no later than February 22, 2013 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35709, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Thomas F.

³ PIR supplemented the certification in its verified notice by letters filed on December 27, 2012 and January 2, 2013. On January 9, 2013, PIR clarified that the employees of SDIY are not members of a union; thus, union notification was not required.

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IL 60604-1112.

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Decided: January 17, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.