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SERVICE DATE – JANUARY 18, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34796

IOWA INTERSTATE RAILROAD, LTD.–SUBLEASE EXEMPTION–  
CSX TRANSPORTATION, INC.

Decided: January 10, 2006

By petition filed on December 1, 2005, Iowa Interstate Railroad, Ltd. (IAIS), a Class II carrier, seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10902 to sublease from CSX Transportation, Inc. (CSXT), and operate an approximately 31.9-mile line of railroad from milepost BIF 95, in Utica, IL, to milepost BIF 126.9, in Henry, IL. IAIS also requests expedited consideration of the petition to permit closing of the transaction by February 3, 2006.<sup>1</sup> We will grant the exemption subject to labor protective conditions.

BACKGROUND

CSXT is the current lessee of the line under a lease dated December 3, 1981, and entered into with William M. Gibbons, Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company. IAIS presently holds overhead trackage rights over the line through CSXT. According to IAIS, the present owner of the line, International Mining Company, has entered into an agreement with CSXT that allows subleasing of the line.

Under the terms of the agreement between IAIS and CSXT, IAIS will have: (1) exclusive rights to serve all customers located on the line; (2) the responsibility for maintaining the line; and (3) the obligation to enhance track conditions to increase train speeds along the line.

The sublease term is for 20 years, commencing on February 3, 2006, with IAIS having the right to sublease the line for an additional 5-year increment at the conclusion of the initial sublease term. It is anticipated that at the conclusion of the sublease, IAIS's former trackage rights for the line will resume.

The stated purpose of the transaction is to provide IAIS with reliable and accessible track in the Chicago, IL area, in lieu of its existing trackage rights agreement. According to IAIS, the transaction will result in enhanced maintenance of the line. Finally, IAIS asserts that, as a local

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<sup>1</sup> IAIS's petition listed a closing date of February 6, 2006. In a letter filed on December 6, 2005, IAIS amended its petition to reflect a closing date of February 3rd.

railroad, it will market rail service to existing and potential shippers on the line more aggressively than CSXT.

## DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 10902, the sublease and operation of a rail line by a Class II carrier would require an application to, and authorization by, the Board. Under 49 U.S.C. 10502, however, we must exempt a transaction or service from regulation if we find that: (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction or service is limited in scope; or (b) regulation is not needed to protect shippers from the abuse of market power.

An exemption from the prior approval requirements of 49 U.S.C. 10902 is consistent with the standards of 49 U.S.C. 10502. Detailed scrutiny of the proposed transaction is not necessary to carry out the rail transportation policy. An exemption will minimize the need for Federal regulatory control [49 U.S.C. 10101(2)], foster sound economic conditions in transportation [49 U.S.C. 10101(5)], reduce regulatory barriers to entry into the rail industry [49 U.S.C. 10101(7)], and encourage efficient management of railroads [49 U.S.C. 10101(9)]. Other aspects of the rail transportation policy will not be adversely affected.

Regulation of the proposed transaction is not needed to protect shippers from an abuse of market power. IAIS has indicated that there will be no adverse impact to shippers on the line. IAIS will merely replace CSXT as the carrier. Also, IAIS asserts that the transaction will likely result in enhanced rail service because IAIS intends to upgrade the track and more aggressively market to local shippers.

Under 49 U.S.C. 10502(g), we may not use our exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of adversely affected employees. Section 10902(d) provides for labor protection in line acquisitions by Class II rail carriers. As a condition to this exemption, any employees affected by the acquisition will be protected as required by section 10902(d), subject to the standards and procedures established in Wisconsin Central Ltd.–Acquisition Exem.–Union Pac. RR, 2 S.T.B. 218 (1997), aff'd in relevant part sub nom. Association of American Railroads v. STB, 162 F.3d 101 (D.C. Cir. 1998). As required by 49 CFR 1121.4(h), IAIS has certified to the Board that it has posted a notice of the transaction at the workplace of potentially affected employees and served the same on the national organizations representing them. The certification was made more than 60 days prior to February 3, 2006, and therefore the requirements of section 1121.4(h) will have been met for the exemption to be effective on that date.

This transaction is exempt from environmental reporting requirements under 49 CFR 1105.6(c)(2)(i) because it will not result in any significant change in carrier operations. Similarly, the transaction is exempt from the historic reporting requirements under 49 CFR

1105.8(b)(1) because further Board approval is required to abandon any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older.

In requesting expedited consideration, IAIS asks that the exemption be effective prior to February 3, 2006, to allow for closing of the transaction on that date. According to IAIS, a significant part of the sublease is based on its assumption of track maintenance obligations for the line. IAIS wishes to begin an aggressive track rehabilitation plan in April 2006. IAIS does not want to commit funds to the materials necessary for the track work until it is certain of the regulatory authority to sublease the line. Under the circumstances cited by IAIS, the request for expedited action is reasonable. Accordingly, this decision is being issued on an expedited basis and the exemption will be made effective on February 3, 2006, rather than the normal 30 days after service of the decision and publication in the Federal Register.

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

It is ordered:

1. Under 49 U.S.C. 10502, the above-described transaction is exempted from the prior approval requirements of 49 U.S.C. 10902, subject to the employee protective conditions implementing 49 U.S.C. 10902(d) as provided in this decision.
2. Notice will be published in the Federal Register on January 18, 2006.
3. The exemption will become effective on February 3, 2006.
4. Petitions to stay must be filed by January 25, 2006. Petitions to reopen must be filed by February 7, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams  
Secretary