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SERVICE DATE - OCTOBER 16, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33483]

The Toledo, Peoria and Western Railroad Corporation—Continuance in Control

Exemption—Marksman Corporation

The Toledo, Peoria and Western Railroad Corporation (TPW Railroad) has filed a notice of exemption to continue in control of the Marksman Corporation (Marksman), upon Marksman's becoming a Class III railroad.

The earliest the transaction can be consummated is October 14, 1997, the effective date of the exemption (7 days after the exemption was filed).

This transaction is related to STB Finance Docket No. 33481, Marksman Corporation—Lease and Operation Exemption—J.K. Line, Inc., wherein Marksman seeks to lease and operate a rail line from J.K. Line, Inc.

Applicant indirectly controls one existing Class III railroad subsidiary: Toledo, Peoria & Western Railway Corporation (TPW Railway),¹ operating in the States of Indiana, Illinois and Iowa.

Applicant states that: (i) the rail lines to be operated by Marksman do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect Marksman's lines with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the

¹ Marksman owns 100% of the stock of TPW Railway.

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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33483, 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 Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381-0796.

Decided: October 8, 1997.

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

Vernon A. Williams

Secretary