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SERVICE DATE – JANUARY 25, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35562

IOWA INTERSTATE RAILROAD, LTD.—LEASE EXEMPTION—LINE OF CEDAR
RAPIDS AND IOWA CITY RAILWAY COMPANY

Digest:¹ The Board is granting an exemption for the Iowa Interstate Railroad, Ltd. to lease and operate 8.4 miles of railroad owned by Cedar Rapids & Iowa City Railway Co., subject to employee protective conditions. The line runs between Iowa City and Hills, Iowa.

Decided: January 18, 2012

By petition filed on November 9, 2011, Iowa Interstate Railroad, Ltd. (IAIS) seeks an exemption pursuant to 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10902 to lease and operate 8.4 miles of railroad owned by Cedar Rapids & Iowa City Railway Co. (CRANDIC). The subject trackage, known as the Hills Line, extends from a connection with CRANDIC's Cedar Rapids-Iowa City line at milepost 25.0 near Burlington Street in Iowa City, Iowa, to the end of track at milepost 33.4 in Hills, Iowa. The Hills Line connects with IAIS track near milepost 26 that, in turn, connects to IAIS's main line and Iowa City Yard. We will grant the exemption, subject to labor protective conditions.

BACKGROUND

IAIS is a Class II rail carrier that owns or operates approximately 551 miles of rail line in Iowa and Illinois. CRANDIC is a Class III rail carrier that owns or operates approximately 60 miles of rail line extending southeast and southwest from Cedar Rapids, Iowa. CRANDIC currently provides rail service on an as-needed basis to 3 active shippers on the Hills Line, which collectively generate approximately 600 annual carloads of traffic. While CRANDIC provides service approximately 1-2 days per week, utilizing a crew based 25 miles away in Cedar Rapids, IAIS hopes to increase service on the line, if warranted, to 2-3 days per week, utilizing a crew based at IAIS's nearby Iowa City Yard. IAIS anticipates that the close proximity of IAIS yard and crew resources to the Hills Line will allow IAIS to be more responsive to the service needs of shippers on the line.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

The proposed lease agreement extends for a term of 5 years, subject to possible extension by the parties as provided in the lease. IAIS indicates that its operations on the line will not begin until on or about February 1, 2012. IAIS believes that the 3 shippers on the Hills Line—City Carton Recycling, Nagle Lumber, and Eldon C. Stutsman, Inc.—support the proposed lease. IAIS certified on November 8, 2011, that it had served a copy of its petition on each of the three shippers on the line. No comments have been received from any of them.

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. § 10902, the lease 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(a), 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 in this case from the prior approval requirements of 49 U.S.C. § 10902 is consistent with the standards of 49 U.S.C. § 10502. Due to the close proximity of IAIS yard and crew resources to the Hills Line, the transaction should allow IAIS to provide more efficient and frequent rail service to shippers on the line and enhance the long-term viability of operations on the line. Thus, granting an exemption from the application process not only will minimize the need for Federal regulatory control (49 U.S.C. § 10101(2)) and reduce regulatory barriers to entry into and exit from the rail industry (49 U.S.C. § 10101(7)), but also will foster sound economic conditions in transportation (49 U.S.C. § 10101(5)) and encourage efficient management of railroads (49 U.S.C. § 10101(9)). Other aspects of the rail transportation policy will not be adversely affected. Therefore, detailed scrutiny of this transaction is not necessary to carry out the rail transportation policy.

Regulation of this transaction is not needed to protect shippers from the abuse of market power.² No shipper is expected to lose access to rail service under the lease, and operations to be conducted by IAIS will simply replace those currently performed by CRANDIC. Furthermore, the lease should benefit shippers because the close proximity of IAIS yard and crew resources to the Hills Line should allow IAIS to respond more quickly to the service needs of existing Hills Line shippers and any businesses that may locate on the line in the future.

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 employees. Section 10902(d) provides for labor protection in line acquisitions (including lease transactions) by Class II rail carriers. As a condition to this exemption, any employees affected by the acquisition will be protected, as required by § 10902(d), subject to the standards and procedures established in

² Because we find that regulation of the proposed transaction is not necessary to protect shippers from the abuse of market power, we need not determine whether the proposed transaction is limited in scope under § 10502(a).

Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad Co., 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 C.F.R. § 1121.4(h), IAIS certified to the Board on November 7, 2011, that it has posted a notice of the transaction at the workplaces of employees on the Hills Line and served the notice on the national offices of the labor unions representing those employees.

This transaction is exempt from environmental reporting requirements under 49 C.F.R. § 1105.6(c)(2)(i), because it will not result in a significant change in carrier operations. Similarly, the transaction is exempt from the historic reporting requirements under 49 C.F.R. § 1105.8(b)(1), because there are no plans to alter railroad properties 50 years old or older, and further Board approval would be required as a prerequisite to any discontinuance of service by IAIS or abandonment by CRANDIC.

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 25, 2012.
3. The exemption will become effective on February 24, 2012.
4. Petitions to stay must be filed by February 9, 2012. Petitions for reconsideration must be filed by February 21, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.