

28737

SERVICE DATE - JANUARY 9, 1998

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33530]

RailTex, Inc., Indiana & Ohio Rail Corp., Cincinnati Terminal Railway Company, Indiana and Ohio Railroad, Inc., Indiana & Ohio Railway Company, and Indiana & Ohio Central Railroad, Inc.—Corporate Family Transaction Exemption

RailTex, Inc. (RailTex),<sup>1</sup> Indiana & Ohio Rail Corp. (I&O),<sup>2</sup> Cincinnati Terminal Railway Company (CTER), Indiana and Ohio Railroad, Inc. (INOH), Indiana & Ohio Railway Company (IORY), and Indiana & Ohio Central Railroad, Inc. (IOCR) have jointly filed a verified notice of exemption. CTER and INOH will be merged into IORY. After consummation of the transaction, I&O will directly control two Class III railroads: the IORY and the IOCR.

The transaction was to be consummated on or after December 18, 1997. The transaction will simplify RailTex's corporate structure and eliminate costs associated with separate accounting, tax, bookkeeping and reporting functions.

The merger of CTER and INOH into IORY is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR

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<sup>1</sup> RailTex is a noncarrier which directly controls 17 Class III railroads operating in 21 states, as well as 3 rail carriers that operate in Canada.

<sup>2</sup> RailTex also directly controls I&O, a noncarrier, which controls CTER, INOH, IORY, and IOCR, 4 Class III railroads that have been operated as a single system.

1180.2(d)(3). The parties state that the transaction will not result in changes in service levels, operational changes, or a change in the competitive balance with carriers outside the corporate family.

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 verified notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33530, must be filed with the Surface Transportation Board, Office of the Secretary, Case

STB Finance Docket No. 33530

Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Decided: December 31, 1997.

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

Vernon A. Williams

Secretary

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