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SEC

SERVICE DATE - AUGUST 27, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33778

LOUISVILLE & INDIANA RAILROAD COMPANY
-TRACKAGE RIGHTS EXEMPTION-
NEW YORK CENTRAL LINES LLC AND CSX TRANSPORTATION, INC.

Decided: August 26, 1999

In a notice of exemption served and published on July 21, 1999 (64 FR 39185), New York Central Lines, LLC (NYC), as owner, and CSX Transportation, Inc. (CSXT), as operator, granted overhead trackage rights over certain lines in the Indianapolis, IN area to the Louisville & Indiana Railroad Company (L&I).¹

On July 28, 1999, the Indianapolis Power and Light Company (IPL) filed a petition for leave to intervene in this proceeding to ascertain whether its interests may be affected by L&I's acquisition of trackage rights. IPL states that some of the trackage involved in the trackage rights proceeding is used to move coal to two of its plants in the Indianapolis area. IPL maintains that the trackage rights could potentially impact competition or rail service to its plants. It says that the trackage rights acquired by L&I may have a bearing on future trackage rights or other arrangements that might be sought in the Conrail proceeding.

IPL also seeks to intervene as a party so that it could have access to the unredacted trackage rights agreement. The trackage rights agreement in this proceeding was submitted under seal with the notice of exemption. A redacted copy of the agreement was made available to the public. A protective order was served July 15, 1999, limiting access and disclosure of the full trackage rights agreement.

No opposition to IPL's petition has been filed.

¹ In CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388, Decision No. 89 (STB served July 23, 1998) (the Conrail proceeding), the Board approved the acquisition of control of Consolidated Rail Corporation (Conrail) and the division of Conrail's assets. Under the Transaction Agreement in that proceeding, certain assets of Conrail, including the lines involved here, were allocated to NYC, which is a wholly owned subsidiary of Conrail. CSXT became operator of the lines under the terms of an operating agreement between NYC and CSXT.

Good cause exists to grant IPL's petition and permit IPL to become a party to this proceeding. By becoming a party to this proceeding, IPL becomes subject to the provisions of the protective order and would have an opportunity to gain access to the unredacted trackage rights agreement subject to the terms of that protective order.

It is ordered:

1. IPL's petition for leave to intervene as a party to this proceeding is granted.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary