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February 2, 2005

213164

VIA MESSENGER

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

ENTERED
Office of Proceedings

FEB 2 - 2005

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Public Record

Re: Indiana & Ohio Central Railroad, Inc. - Acquisition & Operation Exemption
- CSX Transportation, Inc., STB Finance Docket No. 34536

Dear Secretary Williams:

Enclosed are an original and 10 copies of the Response of CSX Transportation, Inc. to the United Transportation Union's Supplemental Petition to Revoke, as well as three computer diskettes containing the Response.

Please time and date stamp the additional copy of the Response and return it with the messenger. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads 'Ronald M. Johnson'.

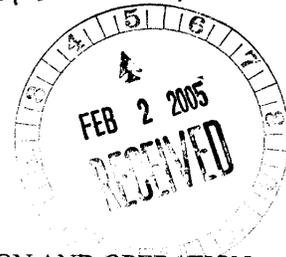
Ronald M. Johnson

Enclosures

213164

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34536



INDIANA & OHIO CENTRAL RAILROAD, INC. -- ACQUISITION AND OPERATION
EXEMPTION -- CSX TRANSPORTATION, INC.

RESPONSE OF CSX TRANSPORTATION, INC. TO
UNITED TRANSPORTATION UNION'S SUPPLEMENTAL PETITION TO REVOKE

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February 2, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34536

INDIANA & OHIO CENTRAL RAILROAD, INC. -- ACQUISITION AND OPERATION
EXEMPTION -- CSX TRANSPORTATION, INC.

RESPONSE OF CSX TRANSPORTATION, INC. TO
UNITED TRANSPORTATION UNION'S SUPPLEMENTAL PETITION TO REVOKE

CSX Transportation, Inc. ("CSXT") opposes the Supplemental Petition to Revoke filed on January 18, 2005 by the United Transportation Union ("UTU"). UTU is asking that the Board revoke the exemption of the Indiana & Ohio Central Railroad, Inc. ("IOCR") to acquire and operate about 107 miles of track from CSXT. UTU's Supplemental Petition contains unsupported and general allegations. They are without merit; UTU's Supplemental Petition should be denied.

UTU argues that IOCR's exemption should be revoked, because the notice of exemption "contains false and misleading information" and because "regulation of this transaction is necessary to carry out the rail transportation policy." Supp. Pet. at 2. UTU, however, makes these arguments half-heartedly and makes no effort to support them. UTU does not identify any information contained in the notice of exemption that was false or misleading. UTU does not explain why regulation of the acquisition of this line segment by the IOCR is necessary to carry out rail transportation policy.

UTU further argues that "[t]his case involves several unusual features which can only lead one to conclude the transaction is a device created merely to move a number of jobs out

from under a collective bargaining agreement (CSXT) onto a nonunion carrier (IOCR).” Supp. Pet. at 8. The supposedly “unusual features” are that CSXT will be IOCR’s primary source of supply for freight cars, which somehow “entwines IOCR in such a manner as to essentially make the carrier a virtual piece of the CSXT system,” and that CSXT allegedly maintains significant control over IOCR. Supp. Pet. at 8.

These are the same kinds of boilerplate contentions that UTU made in its Supplemental Petition to Revoke filed in STB Finance Docket No. 34505, East Brookfield and Spencer Railroad, LLC -- Lease and Operation Exemption -- CSX Transportation, Inc. (filed Dec. 17, 2004), and in other proceedings involving the sale or lease of rail lines by a Class I carrier to a short line railroad. The Board has rejected these kinds of general and unsupported, pro forma objections. See, e.g., Meridian Southern Ry., LLC -- Acquisition and Operation -- Line of Kansas City Southern Ry. Co., 2000 STB LEXIS 490 **5-6 (served Aug. 29, 2000) (“But our general policy is that a person seeking to revoke an exemption such as this must present not just generalized concerns, but rather some specific, particularized, and reasonable cause for concern in order for us to revoke an individual use of this class exemption.”).

UTU argues that the circumstances here are unusual because IOCR is allegedly non-union. Whether a railroad has a unionized or non-union work force is not germane to any issues under 49 U.S.C. § 10902. In any event, in this case, UTU is mistaken. IOCR employees involved in train operations are represented by the Brotherhood of Locomotive Engineers and Trainmen.¹

¹ UTU can always attempt to organize non-union employees of short line railroads and in fact has done so. See, e.g., California Northern Railroad, Case No. R-6884, 29 NMB No. 68 (June 21, 2002); Ft. Worth & Western Railroad Co., Case No. R-6912, 30 NMB No. 19 (Dec. 16, 2002).

UTU also argues that IOCR was not the “logical choice” of carrier to acquire this line segment. Supp. Pet. at 8. UTU does not explain what was illogical about IOCR or how the logic or illogic of the selection of IOCR has any bearing on national transportation policy or the requirements of Section 10902. But, IOCR was the “logical” choice. CSXT reached an arm’s length agreement with IOCR that was satisfactory to both. Moreover, IOCR’s other rail lines are adjacent to the line acquired from CSXT, and CSXT and IOCR already interchange traffic.

The fact that CSXT is the primary source of supply of freight cars for IOCR is not unusual in the industry. Short line railroads often rely on the Class I railroads with which they interchange for cars. Under the agreement between CSXT and IOCR, CSXT is not obligated to provide cars to IOCR, and IOCR is not precluded from acquiring cars itself.

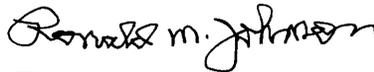
The provisions in the contractual arrangements between CSXT and IOCR listed in the Supplemental Petition are typical of these kinds of line sales and leases. UTU does not offer any explanation why they are supposedly unusual. The sale of track and long-term lease of right-of-way by CSXT to IOCR is simply one of many line transactions that CSXT has entered into over the last 25 years as it focuses its business on operations that make the most business sense to it. See, e.g., Central Railroad of Indianapolis -- Lease and Operations Exemption -- CSX Transp., Inc., STB Finance Docket No. 34508 (served July 30, 2004); M&B Railroad LLC -- Acquisition and Operation Exemption -- CSX Transp., Inc., STB Finance Docket No. 34423 (served Nov. 20, 2003); R.J. Corman Equipment Co. LLC -- Acquisition Exemption -- Lines of CSX Transp., Inc., STB Finance Docket No. 34386 (served Sept. 12, 2003).

Finally, there is no basis for UTU’s contention, again unsupported, that this transaction was a means to move jobs out from under UTU’s collective bargaining agreements with CSXT. As explained, this was a legitimate arms-length transaction between two unrelated companies.

The transaction met the business needs of each. It meets CSXT's goal of focusing its capital and other resources on rail lines that contribute in a meaningful way to its return on investment. It meets IOCR's goal of expanding its services in central Ohio. The Board has previously recognized on numerous occasions that these kinds of line lease and sale transactions are motivated by legitimate business needs. See, e.g., Buckingham Branch Railroad Co. -- Lease -- CSX Transportation, Inc., STB Finance Docket No. 34495, Decision No. 6 (served Nov. 5, 2004); Timber Rock Railroad, Inc. -- Lease Exemption -- The Burlington Northern and Santa Fe Ry. Co., STB Finance Docket No. 34503 (served Oct. 8, 2004).

For the reasons above as well as those in the Response of the IOCR, the UTU's Supplemental Petition to Revoke should be denied.

Respectfully submitted,



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February 2, 2005

CERTIFICATION OF SERVICE

I hereby certify that I have caused the foregoing Response of CSX Transportation Inc. to be served upon the following parties of record by first class pre-paid mail, this 2nd day of February, 2005.

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