

Voting Conference, February 23, 2005

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Ohio Valley Railroad Company –
Petition to Restore Switch Connection and Other Relief

STB Finance Docket No. 34608

Ohio Valley Railroad Company
– Acquisition and Operation Exemption –
Harwood Properties, Inc.

STB Finance Docket No. 34486

Good morning Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

We present here the staff recommendations in two separate proceedings, both of which involve disputes between Ohio Valley Railroad Company and Indiana Southwestern Railway Co., and the same rail lines.

In STB Finance Docket No. 34608, Ohio Valley and Mid-America Locomotive and Car Repair, Inc., a locomotive and car repair facility served by Ohio Valley, seek an order directing the restoration of a switch connection linking Ohio Valley with Indiana Southwestern. Ohio Valley and Mid-America also ask that we confirm Ohio Valley's right to direct interchange with CSX Transportation, Inc., via Indiana Southwestern's lines.

According to Ohio Valley, Indiana Southwestern removed its two switch connections with Ohio Valley on October 16, 2004. Because Indiana Southwestern is the only carrier to which Ohio Valley connects, Ohio Valley is now isolated from the rest of the national rail system. Ohio Valley and Mid-America argue that the removal of the switch connections is unjustified and impedes the ability of both to develop business. Indiana Southwestern responds that it acted out of concern that Ohio Valley would operate over Indiana Southwestern's lines without appropriate Board authority. Although Indiana Southwestern has agreed to restore one of the two connecting switches, it apparently has not yet done so. In addition, Indiana Southwestern maintains that Ohio Valley lacks any right to interchange directly with CSXT.

The draft decision before you in STB Finance Docket No. 34608 would find that, under these circumstances, Indiana Southwestern, in removing the switch connections, has not adhered to its obligation to provide reasonable facilities for interchange under 49 U.S.C. 10742. The decision would direct Indiana Southwestern immediately to restore the south end switch connection that Ohio Valley has indicated is necessary for interchange to occur and to notify the Board that it has done so. In addition, the draft decision would decline to resolve the dispute over Ohio Valley's purported contractual right to interchange directly with CSXT.

In STB Finance Docket No. 34486, Indiana Southwestern requests that the Board reopen its decision served on September 28, 2004 for material error. That decision denied Indiana Southwestern's petition to reject Ohio Valley's notice of exemption to

lease and operate trackage in Evansville, IN, or to revoke Ohio Valley's exemption. The draft decision before you in this proceeding would deny Indiana Southwestern's request for reopening because no material error has been shown.

We would be happy to address any questions you might have.