

[Finance Docket No. 32750]**RailAmerica, Inc.—Control Exemption—Prairie Holding Corporation and Dakota Rail, Inc.**

RailAmerica, Inc. (RailAmerica), has filed a notice of exemption to acquire control, through stock purchase, of Dakota Rail, Inc. (Dakota), a class III rail carrier, operates 43.66 miles of rail line from Wayzata, MN, where it connects with the lines of the Burlington Northern Railroad Company, to Hutchinson, MN.

RailAmerica, a noncarrier holding company, also controls Huron and Eastern Railway Company, Inc. (HESR), the Saginaw Valley Railway Company (SGVY), the South Central Tennessee Railroad Company (SCTR), and the Delaware Valley Railway Company (DVR).¹ Under the terms of an agreement with Prairie Holding Corporation, a holding company, RailAmerica will acquire all of the outstanding stock of Prairie and all of the outstanding stock of Prairie's wholly owned subsidiary, Dakota.² After consummation, RailAmerica will be in control of five nonconnecting class III rail carriers.³ The proposed control transaction was scheduled for consummation on or after September 1, 1995.

RailAmerica indicates that: (1) The lines operated by Dakota do not connect with any rail lines operated by any rail carrier within its corporate family; (2) the involved transaction is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad within its corporate family; and (3) the transaction does not involve a class I carrier. The transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2). The purpose of the transaction is to preserve and enhance rail service on a light density rail line. RailAmerica anticipates that it will be able to attract more rail service to the line than is presently being provided by offering

¹ Common control of these carriers was approved by the Commission in: (1) *John H. Marino, Eric D. Gerst, and Mariner Corporation—Control Exemption—Saginaw Valley Railway Company, Inc.*, Finance Docket No. 31196 (ICC served Apr. 23, 1991); (2) *RailAmerica, Inc.—Control Exemption—South Central Tennessee Railroad Company*, Finance Docket No. 32421 (ICC served Jan. 18, 1994); and (3) *RailAmerica, Inc.—Continuance in Control Exemption—Delaware Valley Railway Company, Inc.*, Finance Docket No. 32534 (ICC served Aug. 31, 1994).

² By decision served September 18, 1995, the Commission's Secretary granted a motion for a protective order regarding the stock purchase agreement.

³ HESR and SGVY connect with each other, but none of the rail carriers connects with Dakota.

lower costs, more frequent service, an improved car supply, and funded capital improvements enabling Dakota to handle heavier shipments for certain customers.

As a condition to the use of this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).⁴

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.⁵ The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Robert L. Calhoun, 1025 Connecticut Avenue, N.W., Suite 1000, Washington, DC 20036.

Decided: September 19, 1995.

By the Commission, David M. Konschnick, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95-23724 Filed 9-22-95; 8:45 am]

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[Finance Docket No. 32663]**Burlington Northern Railroad Company—Trackage Rights Exemption—Missouri Pacific Railroad Company**

The Missouri Pacific Railroad Company has agreed to grant overhead trackage rights to Burlington Northern Railroad Company on approximately 0.5 miles of rail line extending between milepost 435.32 and milepost 435.81 at Nebraska City, NE. The trackage rights were to become effective on September 14, 1995.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Michael E. Roper, Burlington

⁴ Although RailAmerica states that no employees will be adversely affected by the transaction, it recognizes that the Commission may not relieve a carrier of labor protection obligations for section 11343 transactions. 49 U.S.C. 11343.

⁵ By letter filed September 5, 1995, the Minnesota Department of Transportation (MNDOT) expresses opposition to the transaction pending its review of whether the sale of Dakota complies with laws and existing agreements to protect the public interest. The notice satisfies the Commission's class exemption provisions under 49 CFR 1180.2(d) and will be published. MNDOT may file a petition to revoke the exemption if it concludes, after its review of the transaction, that grounds for revocation exist.

Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102-5384.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: September 19, 1995.

By the Commission, David M. Konschnick, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

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DEPARTMENT OF JUSTICE**Antitrust Division**

[Civil Action No. 72-344 (AGS)]

United States v. International Business Machines Corporation; Proposed Final Judgment Termination

Take Notice that International Business Machines Corporation ("IBM"), defendant in this antitrust action, has filed a motion for an order terminating the final judgment entered by the United States District Court for the Southern District of New York on January 25, 1956 (the "Final Judgment"). The United States of America, plaintiff, has tentatively consented to IBM's motion in certain respects, but has reserved the right to withdraw its consent for at least 90 days after publication of this Notice. The Complaint, Final Judgment and proposed termination are further described below.

This Notice relates solely to those aspects of the Final Judgment to which the United States has tentatively consented to termination. A further notice will be published before any action on IBM's termination motion as it applies to the remainder of the Final Judgment. Prior to entry of an order terminating any aspect of the Final Judgment, the Court and the parties will consider public comments. Any such comments on the proposed terminations described in this Notice must be filed within 60 days.

The Final Judgment was entered by consent between IBM and the United States, settling an action filed on January 21, 1952. The Complaint in that action alleged that IBM had monopolized, attempted to monopolize and restrained trade in the tabulating industry, in violation of Sections 1 and

2 of the Sherman Act. Among other things, the Complaint alleged that IBM had restrained the development and growth of: other manufacturers of tabulating machines, attachments for tabulating machines and tabulating cards; businesses involved in the purchase and sale of used tabulating machinery; independent service bureaus; maintenance and repair businesses and parts businesses. The Complaint alleged that IBM only leased, and refused to sell, tabulating machines. Through its lease agreements, IBM allegedly: charged lessees a single price for machine rental, instruction and repair and maintenance; limited machine uses; restricted attachments to, alterations in, or experimentation with such machines; and required grant backs of any inventions resulting from a breach of the prohibition on experimentation. The Complaint alleged that IBM operated its service bureaus to preempt demand for the products of other manufacturers and restrained the growth of independent service bureaus by discriminating in favor of its own service bureau.

The Final Judgment applies to IBM's conduct with respect to tabulating machines and cards, both of which IBM has not manufactured for many years, and "electronic data processing machines." Certain provisions of the Final Judgment have expired or no longer apply to IBM's business. However, other provisions of the Final Judgment continue to apply to IBM's electronic data processing machine business.

The United States has tentatively agreed to terminate certain sections of the Final Judgment in their entirety: (a) Sections V(b) and (c), which require IBM to offer to sell at no more than specified prices and for a specified period used IBM machines that IBM acquires pursuant to trade-ins or as a credit against sums then or thereafter payable to IBM; and (b) Section VIII, which specifies conditions under which IBM may engage in "service bureau business," as defined by Section II(k) of the Final Judgment. Section VIII requires IBM to conduct its service bureau business through a subsidiary that is required to charge prices for services it renders based upon rates that fairly reflect all expenses properly chargeable to the subsidiary, except that the service bureau subsidiary may reduce any price to meet a competitor's price. Section VIII also prohibits IBM from providing machines to its service bureau subsidiary except on the same terms and conditions that are available to other service bureaus.

The United States also has tentatively agreed to terminate all other provisions of the Final Judgment except as they apply to the System/360 . . . 390 and AS/400 families of products and services (insofar as such services are affected by Sections VI, VII, IX and XV of the Final Judgment). These other provisions of the Final Judgment, among other things: (a) to fulfill the purposes of the Final Judgment in assuring to users and prospective users of IBM machines an opportunity to purchase those machines on terms and conditions that are not substantially more advantageous to IBM than the terms and conditions for leases of the same machines, require IBM to sell its machines at prices that have a commercially reasonable relationship to the lease charges for the same machines; (b) restrict IBM's ability to reacquire previously sold IBM machines; (c) require IBM to offer to machine owners at reasonable and nondiscriminatory prices repair and maintenance service for as long as IBM provides such service, provided that the machine has not been altered or connected to another machine in such a manner that its maintenance and repair is impractical for IBM; (d) require IBM to offer to machine owners and to persons engaged in the business of providing repair and maintenance services, at reasonable and nondiscriminatory prices, repair and replacement parts for as long as IBM has such parts available for use in its leased machines; (e) restrain IBM from requiring that lessees or purchasers of IBM machines disclose to IBM the uses of such machines, from requiring that purchasers of IBM machines have those machines maintained by IBM and generally from prohibiting experimentation with, alterations in or attachments to IBM machines; (f) require IBM to furnish to owners of IBM machines certain manuals, books of instructions and other documents relating to IBM machines that IBM furnishes to its own repair and maintenance employees; and (g) require IBM to furnish to purchasers and lessees of IBM certain manuals, books of instruction and other documents that pertain to the operation and application of such machines.

IBM and the United States have each filed with the Court memoranda setting forth their respective positions. Copies of the Complaint, the Final Judgment, the Stipulation containing the Government's tentative consent, the memoranda and all over papers filed in connection with this motion are available for inspection at the Office of the Clerk of the United States District

Court, Southern District of New York, United States Courthouse, 500 Pearl Street, New York, New York 10007 and at Suite 215, Antitrust Division, Department of Justice, 325 7th Street NW., Washington, DC 20530 (Telephone 202-514-2481). Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by the Department of Justice.

Interested persons may submit comments regarding this matter within the sixty (60) day period established by Court order. Such comments must be filed with the Office of the Clerk of the United States District Court, Southern District of New York, 500 Pearl Street, New York, New York 10007 with copies mailed at the time of filing to: (a) counsel for IBM, Peter T. Barbur, Esq., Cravath, Swaine & Moore, Worldwide Plaza, 825 Eighth Avenue, New York, N.Y. 10019; and (b) counsel for the United States, Kent Brown, Attorney, Computers & Finance Section, Antitrust Division, United States Department of Justice, Judiciary Center Building, Suite 9901, 555 4th Street NW., Washington, DC 20001 (Telephone 202-307-6200).

Rebecca P. Dick,

Deputy Director of Operations.

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DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Data Collection for the Youth Fair Chance Program Evaluation

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed new