

[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.

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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