

publication of notice thereof in the Federal Register. Amendment Nos. 1 and 2 consist of clarifying changes that serve to strengthen the Exchange's proposal, but do not materially alter the terms of the proposal as originally described when published for comment.¹⁵ Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of that Act, to approve Amendment Nos. 1 and 2 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-PSE-96-12 and should be submitted by September 5, 1996.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change (SR-PSE-96-12), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,¹⁷

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board¹

[STB Finance Docket No. 32957]

Norfolk and Western Railway Company—Acquisition Exemption—Consolidated Rail Corporation

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The Board exempts, under 49 U.S.C. 10502, from the prior approval requirements of 49 U.S.C. 11323-25, the acquisition² by Norfolk and Western Railway Company (NW) of a portion of Consolidated Rail Corporation's (Conrail) Pekin Secondary Track,³

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

² NW seeks an exemption both to acquire and to operate, and the petition is styled accordingly. While an exemption from the requirements of 49 U.S.C. 11323-25 for NW's acquisition and operation is consistent with the standards of 49 U.S.C. 10502, we note that NW requires neither separate authority nor an exemption to operate the line being acquired. When a rail carrier petitioned for an exemption to acquire or lease a rail line from another rail carrier under former 49 U.S.C. 11343 of the Interstate Commerce Act, the ICC normally also exempted the operation of the line, if requested, but the exemption to operate was not necessary. The status of the purchaser or lessor, as a carrier, coupled with the purchase agreement or lease, constituted sufficient authority to conduct operations. Similarly, authority or an exemption for a carrier to acquire or lease a line under 49 U.S.C. 11323-25 of the ICCTA provides the necessary authority to conduct operations.

³ Conrail filed a notice of exemption to abandon the portion of the Pekin Secondary Track between milepost 4.00 and milepost 28.50 in *Consolidated Rail Corporation—Abandonment Exemption—in Vermilion and Champaign Counties, IL*, STB Docket No. AB-167 (Sub-No. 1161X) (STB served June 28, 1996). The abandonment exemption is contingent upon the issuance of an exemption in this proceeding and upon NW's acquisition of the line pursuant to that exemption.

On July 8, 1996, Grand Prairie Co-op, Inc. (Grand Prairie), filed a notice of intent to file an offer of financial assistance (OFA) under 49 CFR 1152.27(c)(2) for a portion of the line involved in STB Docket No. AB-167 (Sub-No. 1161X). Also on July 8, 1996, the Illinois Legislative Director for the United Transportation Union (UTU) filed a petition for stay of the abandonment exemption. On July 17, 1996, Conrail replied to UTU's stay request. On July 18, 1996, UTU filed a petition to reject or to revoke the notice of exemption, which UTU states is a supplement to its July 8 petition to stay. On July 23, 1996, Grand Prairie filed a petition requesting the Board to toll the 30-day period for filing its OFA or, in the alternative, to deny the exemption in STB Finance Docket No. 32957. On July 26, 1996, Conrail replied to UTU's petition to reject or revoke. By decision served August 2, 1996, the time for filing OFAs was extended to August 12, 1996, and the effectiveness of the exemption in STB Docket No. AB-167 (Sub-No. 1161X) was extended to August 22, 1996.

between milepost 28.5, at Urbana, and milepost 78.3, at Bloomington, in Champaign, Dewitt, and McLean Counties, IL, totaling 49.8 miles, subject to standard employee protective conditions. The exemption includes the acquisition, through assignment from Conrail, of trackage rights⁴ between NW milepost 373.54, at Bloomington, and NW milepost 410.72, at Peoria, IL, totaling 37.18 miles.⁵

DATES: This exemption is effective on August 30, 1996. Petitions to reopen must be filed by September 9, 1996.

ADDRESSES: Send pleadings referring to STB Finance Docket No. 32957 to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423; (2) John J. Paylor, Two Commerce Square-16A, 2001 Market Street, Philadelphia, PA 19101-1416; and (3) Robert J. Cooney, Three Commercial Place, Norfolk, VA 23510-2191.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: August 9, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

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⁴ These trackage rights were acquired by Conrail from NW in *Consolidated Rail Corporation—Trackage Rights Exemption—Between Bloomington and Peoria, IL*, Finance Docket No. 30311 (ICC served Dec. 12, 1983), to allow abandonment of Conrail's parallel line, which served no local customers and was in need of rehabilitation. Upon conveyance of these trackage rights to NW, the owner of the line, the trackage rights will effectively merge with NW's ownership and cease to exist as separate rights.

⁵ By letter to the Board dated July 12, 1996, petitioner corrected an error in the milepost description of the trackage rights. The original notice in Finance Docket No. 30311 and the petition for exemption in this proceeding stated that the trackage rights were over 38.18 miles of track, instead of the actual mileage between the mileposts, which is 37.18 miles.

¹⁵ Securities Exchange Act Release No. 37186, *supra* note 3.

¹⁶ 15 U.S.C. 78s(b)(2) (1988).

¹⁷ 17 CFR 200.30-3(a)(12).