

[STB Finance Docket No. 33309]**RailTex, Inc.—Continuance in Control Exemption—Pittsburgh Industrial Railroad, Inc.**

Railtex, Inc. (RailTex), a noncarrier holding company, has filed a notice of exemption to continue in control of Pittsburgh Industrial Railroad, Inc. (PIR), upon PIR's becoming a Class III railroad. The transaction is scheduled to be consummated on December 6, 1996.

The transaction is related to STB Finance Docket No. 33308, *Pittsburgh Industrial Railroad, Inc.—Acquisition Operation Exemption—Consolidated Rail Corporation and the Pittsburgh, Chartiers and Youghiogheny Railway Company*, wherein PIR seeks to acquire 32.7 miles of rail line from Consolidated Rail Corporation and 16.0 miles of rail line from the Pittsburgh, Chartiers and Youghiogheny Railway Company.

RailTex controls 21 Class III common carriers and three carriers that operate in Canada by rail: San Diego & Imperial Valley Railroad Company, Inc., operating in California; North Carolina & Virginia Railroad Company, Inc. (including Virginia Southern Division), operating in North Carolina and Virginia; South Carolina Central Railroad Company, Inc. (including Carolina Piedmont Division, operating in South Carolina; Mid-Michigan Railroad, Inc. (including Northeast Kansas & Missouri Division and Texas Northeastern Division, operating in Texas, Kansas, Missouri and Michigan; Chesapeake & Albemarle Railroad Company, Inc., operating in Virginia and North Carolina; Michigan Shore Railroad Company, Inc., operating in Michigan; New Orleans Lower Coast Railroad Company, Inc., operating in Louisiana; Dallas, Garland & Northeastern Railroad, Inc., operating in Texas; Indiana Southern Railroad, Inc., operating in Indiana; Missouri & Northern Arkansas Railroad Company, Inc., operating in Kansas, Missouri and Arkansas; Salt Lake City Southern Railroad Company, Inc., operating in Utah; Grand Rapids Eastern Railroad, Inc., operating in Michigan; Central Oregon & Pacific Railroad, Inc., operating in Oregon and California; New England Central Railroad, Inc., operating in Vermont, New Hampshire, Massachusetts, and Connecticut; Georgia Southwestern Railroad Company, Inc. (including Georgia & Alabama Division and Georgia Southwestern Division, operating in Alabama and Georgia; Austin & Northwestern Railroad Company, Inc. (including Texas-New Mexico Division),

operating in Texas and New Mexico; Cincinnati Terminal Railway Company, operating in Ohio; Indiana and Ohio Railroad, Inc., operating in Indiana and Ohio; Indiana & Ohio Railway Company, operating in Ohio; Indiana & Ohio Central Railroad, Inc., operating in Ohio; and Connecticut Southern Railroad, Inc., operating in Connecticut and Massachusetts.

RailTex states that: (i) the railroads will not connect with each other or any railroad in their corporate family; (ii) the acquisition is not part of a series of anticipated transactions that would connect the twenty one railroads with each other or any railroad in their corporate family; and (iii) the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class II rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33309, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, Suite 225, 1455 F Street, N.W., Washington, D.C. 20005.

Decided: December 20, 1996.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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[STB Docket No. AB-167 (Sub-No. 1168X)]**Consolidated Rail Corporation—Abandonment Exemption—in Brooke and Hancock Counties, WV**

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 4.00-mile portion of its line of railroad known as the Weirton Secondary Track between milepost 35.70 and milepost 39.70 in Brooke and Hancock Counties, WV.

Conrail has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 26, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29³ must be filed by January

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

³ The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.