

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33655]

Wisconsin Central Ltd.—Trackage Rights Exemption—Sault Ste. Marie Bridge Company and Fox Valley & Western Ltd.

Sault Ste. Marie Bridge Company (SSAM) and Fox Valley & Western Ltd. (FVW) have agreed to grant non-exclusive overhead trackage rights to Wisconsin Central Ltd. (WCL):¹ (1) over SSAM's line of railroad between milepost 92.1, at Powers, MI, and milepost 4, at Duck Creek, WI, including access to FVW's main line at Duck Creek (milepost 4), a distance of approximately 88.1 miles; and (2) over FVW's line of railroad between milepost 4, at Duck Creek, and milepost 1.4, at North Green Bay, WI, including access to WCL's pre-existing rights at North Green Bay, a distance of approximately 2.6 miles.

The purpose of the trackage rights is to provide more efficient service by WCL between its lines in the Upper Peninsula of Michigan and the Fox Valley Area of Wisconsin.

As a condition to this exemption, any employees affected by the trackage rights will be protected as required by 49 U.S.C. 11326(b), subject to the procedural interpretations of the analogous statutory provisions at 49 U.S.C. 10902 contained in the Board's decision in *Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad Company*, STB Finance Docket No. 33116 (STB served Apr. 17, 1997) (*WCL Exemption*).

The transaction was scheduled to be consummated on or after September 11, 1998.²

This notice is filed under 49 CFR 1180.2(d)(7). If it 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. 33655, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925

K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Michael J. Barron, Jr., Esq., Wisconsin Central Ltd., 6250 North River Road, Suite 9000, Rosemont, IL 60018.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: September 15, 1998.

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

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33656]

Wisconsin Central Ltd. and Sault Ste. Marie Bridge Company—Joint Relocation Project Exemption—Hermansville, MI, to North Escanaba, MI

On September 4, 1998, Wisconsin Central Ltd. (WCL), a Class II railroad, and Sault Ste. Marie Bridge Company (SSAM), a Class III railroad, filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate certain lines of railroad from Hermansville, MI, to North Escanaba, MI.

Between Hermansville and North Escanaba, WCL and SSAM currently own and operate adjacent and parallel lines of railroad. The WCL MS Line runs, in part, from WCL milepost 310.75, in Hermansville, where it meets in a diamond with the SSAM MS Line, to WCL milepost 336.25, in North Escanaba (WCL Line). The SSAM MS Line runs, in part, from SSAM milepost 4.1, in Hermansville, where it meets in a diamond with WCL's MS Line, to SSAM milepost 0.0/92.1, in Powers, MI, where it meets SSAM's FV Line, and on to milepost 113.0 in North Escanaba (SSAM Line). Both the WCL Line and the SSAM Line run in a generally east-west direction. The joint relocation project will reroute operations from, and allow removal of, one of these duplicative rail lines, thus simplifying rail operations and accommodating efforts to reduce rail interference with vehicular traffic.

Under the joint project, WCL and SSAM propose the following transactions:

(1) WCL will abandon its line of railroad on the WCL Line from milepost 310.75, in Hermansville, to milepost 336.25, in North Escanaba, a distance of approximately 25.5 miles.

(2) SSAM will discontinue its trackage rights operations on the WCL Line from milepost 310.75, in Hermansville, to milepost 336.25, in North Escanaba, a distance of approximately 25.5 miles.

(3) WCL and SSAM will construct a connecting track of approximately nine-tenths of a mile between the WCL Line, at WCL milepost 336.25, and the SSAM Line, at SSAM milepost 113.0. This will connect the SSAM Line with the WCL tracks in North Escanaba. WCL will own the northern portion of the connection track (milepost 336.25 to milepost 335.85), while SSAM will own the southern portion of the connection track (milepost 113.5 to milepost 113.0).

(4) SSAM will grant WCL trackage rights¹ over the SSAM Line between SSAM milepost 4.1, in Hermansville, through SSAM milepost 0.0/92.1 in Powers, MI, to SSAM milepost 113.0, in North Escanaba, and from there: (a) To the division of ownership of the new connecting track, at SSAM milepost 113.5, in North Escanaba; and (b) to SSAM milepost 118.0, in Larch, MI, a total distance of approximately 30.5 miles.

(5) WCL will grant SSAM trackage rights from the division of ownership of the new connecting track, at WCL milepost 335.85, in North Escanaba, through WCL milepost 336.25, in North Escanaba, to WCL milepost 342.7, in Gladstone, MI.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. See *City of Detroit v. Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208 (1993), *aff'd sub nom., Detroit/Wayne County Port Authority v. ICC*, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. See *D.T.&I.R.—Trackage Rights*, 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the joint relocation project will be protected as

¹ SSAM is a Class III railroad. FVW and WCL are Class II railroads.

² The notice to employees discussed in *WCL Exemption* and adopted as a requirement for certain transactions in *Acquisition of Rail Lines Under 49 U.S.C. 10901 and 10902—Advance Notice of Proposed Transactions*, STB Ex Parte No. 562 (STB served Sept. 9, 1997), does not apply to exempt trackage rights transactions.

¹ WCL's existing trackage rights over the SSAM Line from Hermansville through Powers and North Escanaba to Larch, MI, will be superseded and expanded by these new rights.