

FRA is not reopening the comment period since the amendments to this Order are necessary to avoid disruption of rail service. Under these circumstances, delaying the effective date of the amendments to allow for notice and comment would be impracticable, unnecessary, and contrary to the public interest.

#### Extension of MBTA Temporary Operating Protocols

This is the latest in a series of amendments that allows MBTA to follow temporary operating protocols whenever it cannot dispatch a train equipped with ACSES. MBTA has had repeated difficulties in equipping sufficient locomotives with ACSES by the timetable specified in the Order. It is FRA's understanding, however, that Amtrak and MBTA have reached an agreement on what is needed for MBTA to complete equipment of its locomotive fleet for ACSES service.

Amtrak and MBTA agree that 40 MBTA locomotives must be equipped with an FM-8 ACSES configuration. MBTA currently has more than 40 ACSES-equipped locomotives, but only 24 of these have an FM-8 configuration. MBTA has the materials to equip its remaining 16 ACSES-equipped locomotives with an FM-8 configuration, but estimates that it will need four days to equip each locomotive, including transit time. Using this estimate, MBTA has asked for a final extension of the temporary protocols to allow it time to complete equipment of its fleet of ACSES-equipped locomotives. FRA is pleased that Amtrak and MBTA now agree on equipment needs, and will therefore grant MBTA a last extension to use the temporary operating protocols until July 1, 2002. Other than the final extension granted above, the MBTA temporary operating protocols specified in Notice No. 11 (66 FR 34512, June 28, 2001) remain in effect without change.

#### Extension of CSXT Temporary Operating Protocols

On June 28, 2001, in Notice No. 11, FRA granted CSXT a relief period from the implementation schedule specified in the Order. FRA has extended this relief period several times to allow CSXT time to test new Amtrak operational software. FRA is extending the date by which CSXT must complete software testing to July 1, 2002 since Amtrak is continuing to make adjustments to its new operational software.

Other than the extension for software testing explained above, the CSXT temporary operating protocols specified

in Notice No. 11 remain in effect without change.

Accordingly, for the reasons stated in the preamble, the Final Order of Particular Applicability published at 63 FR 39343, July 22, 1998 (Order) is amended as follows:

1. The authority for the Order continues to read as follows: 49 U.S.C. 20103, 20107, 20501-20505 (1994); and 49 CFR 1.49(f), (g), and (m).
2. Paragraph 11 is amended as follows:

#### 11. Massachusetts Bay Transit Authority (MBTA) Temporary Operating Protocols

(a) Effective upon March 27, 2002 until July 1, 2002, Amtrak must adhere to the following procedures if it becomes necessary to dispatch an MBTA train from its initial terminal with inoperative onboard ACSES equipment:

\* \* \* \* \*

3. Paragraph 12 is amended to read as follows:

#### 12. CSX Transportation (CSXT) Temporary Operating Protocols

(a) Effective upon March 27, 2002 until July 1, 2002, CSXT must adhere to the following protocols if it becomes necessary to dispatch a CSXT train from its initial terminal with inoperative onboard ACSES equipment:

\* \* \* \* \*

Issued in Washington, DC, on March 15, 2002.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 02-7352 Filed 3-26-02; 8:45 am]

BILLING CODE 4910-06-P

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[FTA Docket No. FTA-2002-11911]

#### Agency Information Collection Activity Under OMB Review

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 35001 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on December 27, 2001.

**DATES:** Comments must be submitted before April 26, 2002. A comment to OMB is most effective if OMB receives it within 30 days of publication.

**FOR FURTHER INFORMATION CONTACT:** Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366-6680.

#### SUPPLEMENTARY INFORMATION:

*Title:* 49 U.S.C. Section 5335(a) and (b) National Transit Database (OMB Number: 2132-0008)

*Abstract:* 49 U.S.C. Section 5335(a) and (b) require the Secretary of Transportation to maintain a reporting system by uniform categories to accumulate mass transportation financial and operating information and a uniform system of accounts and records. Each year, transit authorities that receive FTA funding submit data to the National Transit Database. The data that is submitted is used in statutory formulae to apportion over \$4 billion in federal funds back to those agencies. In addition, federal, state, and local government, transit agencies/boards, labor unions, manufacturers, researchers, consultants and universities use the National Transit Database for making transit related decisions. State and local governments also use the National Transit Database in allocating funds under 49 U.S.C. Section 5307. National Transit Database information is essential for understanding cost, ridership and other national performance trends, including transit's share of urban travel. It would be difficult to determine the future structure of FTA programs, to set policy, and to make funding and other decisions relating to the efficiency and effectiveness of the Nation's transit operations without the National Transit Database.

*Estimated Total Annual Burden:* 238,136 hours.

**ADDRESSES:** All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

*Comments Are Invited On:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information

on respondents, including the use of automated collection techniques or other forms of information technology.

Issued: March 22, 2002.

**Timothy B. Wolgast,**  
Deputy Associate Administrator for  
Administration.

[FR Doc. 02-7365 Filed 3-26-02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34060]

#### Midwest Generation, LLC—Exemption From 49 U.S.C. 10901—for Construction in Will County, IL

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of conditional grant of exemption.

**SUMMARY:** Under 49 U.S.C. 10502, the Board conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 the construction by Midwest Generation, LLC (Midwest) of a line of railroad, approximately 4,007 feet long, to serve its coal-fired generating plant in Joliet, Will County, IL.<sup>1</sup>

**DATES:** The exemption is subject to our further consideration of the anticipated environmental impacts of the proposal and will not become effective until the environmental review process is completed. The Board will then issue a further decision addressing the environmental issues and establishing an effective date for the exemption, if warranted, subject to any necessary conditions. Petitions to reopen must be filed by April 16, 2002.

**ADDRESSES:** Send pleadings, referring to STB Finance Docket No. 34060, to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001; (2) Michael F. McBride, LeBoeuf, Lamb, Greene & MacRae, LLP, 1875 Connecticut Avenue, NW., Washington, DC 20009-5728 (Midwest counsel); and (3) Paul A. Cunningham, Harkins Cunningham, 801 Pennsylvania Avenue, NW., Suite 600, Washington, DC 20004-2664 (IC counsel).

**FOR FURTHER INFORMATION CONTACT:** Joseph Dettmar, (202) 565-1600. [TDD

<sup>1</sup> On June 19, 2001, Midwest filed a petition under 49 U.S.C. 10901(d) to require the Illinois Central Railroad Company (IC) to allow Midwest's proposed construction to cross IC's track. The proceeding is docketed as STB Finance Docket No. 34060 (Sub-No. 1), *Midwest Generation, LLC—Petition for Line Crossing Authority Under 49 U.S.C. 10901(d)*. The crossing proceeding remains pending.

for the hearing impaired: 1-800-877-8339.]

#### SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's full decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Da-2-Da Legal, Room 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293-7776. [TDD for the hearing impaired: 1-800-877-8339.]

Board decisions and notices are available at our Web site at [www.stb.dot.gov](http://www.stb.dot.gov).

Decided: March 20, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

**Vernon A. Williams,**  
Secretary.

[FR Doc. 02-7244 Filed 3-26-02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34117]

#### Pemiscot County Port Authority— Construction of a Line of Railroad in Pemiscot County, MO

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of ruling on fee waiver.

**SUMMARY:** The Surface Transportation Board (Board) grants an appeal of the denial of a fee waiver request, but reaffirms that henceforth it will narrowly apply its rule providing for a waiver of filing fees for state and local government entities, as originally intended.

**DATES:** This action is effective immediately.

#### FOR FURTHER INFORMATION CONTACT:

Vernon A. Williams, (202) 565-1650 [TDD/TTY for the hearing impaired: 1-800-877-8339].

**SUPPLEMENTARY INFORMATION:** This decision addresses an appeal of a Board order denying a request for waiver of a filing fee. Under the law, the Board is required to assess fees upon parties filing pleadings seeking to engage the Board's processes. The fees that the Board charges were established by the Board's predecessor, the Interstate Commerce Commission (ICC), in *Regulations Governing Fees for Services*, 1 I.C.C.2d 60 (1984), and they have been amended on various occasions.

The Board's fee program is described fully in 49 CFR 1002.2. Under the provisions of 49 CFR 1002.2(e)(1), a government entity may request a waiver of the otherwise applicable filing fee. In

*Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—Policy Statement*, STB Ex Parte No. 542 (Sub-No. 6) (STB served Dec. 6, 2000) (*Policy Statement*), the Board reviewed how the government-entity fee waiver provision had been used by "state or local government entit[ies] acting in a proprietary capacity as [carriers]" (*id.* at 3), specifically citing cases in which "states, state agencies and local transportation authorities and districts have submitted filings to acquire rail lines, usually for operation by a third party." *Id.* The Board expressed the view that, in the past, waivers had been too readily issued, and emphasized that, for the future, it would closely adhere to the strict guidelines established by the ICC in determining whether to grant a waiver. In particular, the Board stated (*id.* at 4, emphasis in original) that "fees will be assessed to *any entity* (a state or local governmental entity, a quasi-governmental entity, or a government-subsidized transportation company) that owns or proposes to own a carrier, \* \* \* and comes before the Board in that capacity."

In this case, Pemiscot County Port Authority (Pemiscot) filed a request with the Office of the Secretary for waiver of the \$51,500 filing fee required in connection with a petition for a construction exemption under 49 U.S.C. 10502. Because Pemiscot would be seeking authority to construct and operate (through a third party operator) a line of railroad, by letter dated December 10, 2001, Pemiscot's request for waiver of the fee was denied. On March 8, 2002, Pemiscot submitted an untimely appeal, which we will accept for filing, of the decision denying the fee waiver request. In its appeal, Pemiscot argues that even though it will retain a residual common carrier obligation if it contracts with a third party to operate the proposed line, the project that it wants to pursue would "convey[] a public benefit, \* \* \* the project would not exist but for public funding, and \* \* \* the transaction does not entail any effort to gain an advantage over another party." Pemiscot also argues that a waiver is in the best interest of the public and that denial of the waiver would impose an undue hardship on it.

Pemiscot has clearly not shown that the denial of its waiver request was erroneous, and indeed, the decision follows closely the guidelines laid out in the *Policy Statement*. Nevertheless, because a party in a different case was granted a fee waiver after issuance of the *Policy Statement* under circumstances not substantially different from those prevailing here, we will grant