



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36255]

Toledo, Peoria & Western Railway Corp.—Change in Operators Exemption—Winamac Southern Railway Company

Toledo, Peoria & Western Railway Corp. (TPW), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and operate approximately 46.3 miles of rail line owned by Winamac Southern Railway Company (WSRY), located in Indiana as follows: (1) the Bringhurst Line, between milepost 50.1 at Bringhurst and milepost 71.5 at Van Junction in Logansport; (2) the Kokomo Line, between milepost 74.5 at Eighteenth Street Yard in Logansport and milepost 97.9 at Kokomo; and (3) the Kokomo Belt Line, between milepost 0.0 at East Markland Avenue in Kokomo and milepost 1.5 at South Union Street in Kokomo (collectively, the Lines).

According to TPW, the Lines were previously leased to, and operated by, U S Rail Corporation (US Rail) until its lease expired on November 25, 2018. See U S Rail Corp.—Lease & Operation Exemption—Winamac S. Ry., FD 35205 (STB served Dec. 31, 2008), corrected, FD 35205 (STB served Jan. 15, 2009). TPW states that, since the US Rail lease expired, WSRY, as the residual carrier and owner of the Lines, has been providing common-carrier freight service on an interim basis.¹ TPW states that it will provide its own common-carrier service over the Lines pursuant to a lease to be executed shortly. According to TPW, US Rail does not object to the proposed change in

¹ TPW states that, because WSRY does not currently have railroad employees or equipment, WSRY has retained TPW to perform the common carrier service in the name of and on behalf of WSRY.

operators and will no longer operate over the Lines.

TPW certifies that there are no existing interchange commitments with any of the connecting carriers and that none will be required as part of the proposed transaction. TPW states the proposed transaction will not result in the creation of a Class II or Class I rail carrier, but that its projected annual revenues as a result of this transaction would exceed \$5 million. Accordingly, under 49 CFR 1150.42(e), TPW is required, at least 60 days before this exemption is to become effective, to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. On November 28, 2018, TPW certified that it had posted notice of the transaction at the workplace of US Rail employees and noted that US Rail employees are not represented by any labor union.

Under 49 CFR 1150.42(b), a change in operators requires that notice also be given to shippers. TPW certifies that it has provided notice of the proposed change in operators to the eight shippers on the Lines.

The earliest this transaction may be consummated is February 27, 2019 (30 days after the verified notice was filed).²

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

² TPW submitted the verified notice during the partial shutdown of the Federal government from December 22, 2018, through January 25, 2019. Filings submitted during the partial shutdown are considered filed on January 28, 2019. See Filings Submitted or Due to Be Submitted During the Partial Fed. Gov't Shutdown, EP 751 (STB served Jan. 28, 2019).

effectiveness of the exemption. Petitions for stay must be filed no later than February 20, 2019 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36255, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on TPW's representative, Eric M. Hocky, Clark Hill PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

According to TPW, this action is excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at www.stb.gov.

Decided: February 7, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

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