

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 36741

UNION PACIFIC RAILROAD COMPANY
—OPERATION EXEMPTION—
IN TOOELE COUNTY, UTAH

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**UNION PACIFIC RAILROAD COMPANY'S
PETITION FOR EXEMPTION**

FILED
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SURFACE TRANSPORTATION BOARD

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**UNION PACIFIC RAILROAD COMPANY’S
PETITION FOR EXEMPTION**

Union Pacific Railroad Company (“Union Pacific”) files this petition for an exemption from the prior approval requirements of 49 U.S.C. § 10901(a)(3) to reinstitute common carrier service over approximately 1.04 miles of an abandoned rail line, known as the Warner Branch, between Milepost 0.0 and Milepost 1.04, in Tooele County, Utah.¹

BACKGROUND

The Warner Branch was formerly owned and operated by Union Pacific’s predecessor, Western Pacific Railroad Company. In a decision served August 9, 1983, in Finance Docket No. 30208, *Western Pacific Railroad Company—Abandonment Exemption—in Tooele County*, the Interstate Commerce Commission authorized Western Pacific to abandon the entire 15.8-mile branch.

Union Pacific is seeking to reinstitute common carrier service between Milepost 0.0 and Milepost 1.04 of the former Warner Branch to connect its Shafter Subdivision with a new railroad line to be constructed by Savage Tooele Railroad Company (“STR”).

¹ A map showing the line segment involved is attached as Exhibit 1.

STR’s proposal to construct and operate approximately 11 miles of railroad line in Tooele County, Utah, to provide rail service to tenants of the Lakeview Business Park in Grantsville, Utah, is the subject of Docket No. FD 36616, *Savage Tooele Railroad Company—Construction & Operation Exemption—Line of Railroad in Tooele County, Utah*. To facilitate STR’s proposal, Union Pacific agreed to sell STR its right-of-way and track assets between Milepost 1.04 and Milepost 6.94 of the former Warner Branch. Union Pacific was unwilling to sell its right-of-way and track assets between Milepost 0.0 and Milepost 1.04 because it has been using the track as ancillary track to support operations on the Shafter Subdivision. Thus, to establish a connection between STR’s proposed line and the national rail network, and to ensure the line remains connected, Union Pacific agreed with STR to seek Board authority to reinstitute common carrier service between Milepost 0.0 and Milepost 1.04.²

ARGUMENT

Under 49 U.S.C. § 10901, Board authority is required for a rail carrier to provide common carrier service over an additional railroad line, which includes reinstitution of common carrier service over a segment of previously abandoned line.³

Under 49 U.S.C. § 10502, the Board must exempt a transaction from regulation when it finds (1) regulation is not necessary to carry out the rail transportation policy of

² Cf. *Savage Tooele Railroad Company—Construction & Operation Exemption—Line of Railroad in Tooele County, Utah*, FD 36616 (STB served Aug. 24, 2022) (directing STR to clarify how its proposed line “will connect (and remain connected) to the national rail network,” and indicating one solution would be for Union Pacific to seek authority to operate the segment from Milepost 0.0 to Milepost 1.04 as mainline track).

³ See *Burlington Northern R.R.—Operation Exemption—In Mills & Pottawattamie Counties, IA*, FD 32977, slip op. at 2 (STB served Mar. 12, 1997).

49 U.S.C. § 10101; and (2) either (a) the transaction is of limited scope, or (b) regulation is not needed to protect shippers from the abuse of market power.

Union Pacific’s proposed reinstitution of common carrier service plainly satisfies the statutory exemption criteria. The proposed transaction merely involves reinstituting common carrier operations over a short segment of former rail line owned and operated by a predecessor of Union Pacific. Common carrier operations over the segment were terminated as part of an abandonment of a line that, at the time, was no longer necessary to serve public transportation needs. However, the track structure on the segment was left intact for continued use and has been used as ancillary track.

Detailed scrutiny of the proposed transaction under 49 U.S.C. § 10901 is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101. In fact, the exemption will promote the policy by facilitating STR’s plan to provide rail service to tenants of the Lakeview Business Park. *See* 49 U.S.C. § 10101(4) (policy “to ensure the development and continuation of a sound railroad transportation system . . . to meet the needs of the public”); *see also id.* § 10101(7) (policy “to reduce regulatory barriers to entry into an exit from the industry”). It will also “minimize the need for Federal regulatory control” and provide for an “expeditious regulatory decision[.]” *Id.* § 10101(2); *see also id.* § 10101(15) (policy “to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under this part”).

In addition, the proposed transaction is of limited scope, involving only 1.04 miles of rail line. Also, regulation is not needed to protect shippers from the abuse of market power: by facilitating STR’s planned construction, the transaction will help

establish a rail transportation option that otherwise would not exist for tenants of the Lakeview Business Park.

ENVIRONMENTAL AND HISTORIC REVIEW

No environmental documentation is required for the proposed transaction. Union Pacific's proposal does not involve construction: reinstituting common carrier service will involve operations over existing track that Union Pacific has been using as ancillary track. In addition, the proposed transaction will not result in any significant changes in Union Pacific operations (i.e., changes exceeding the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5)): the transaction should not involve a diversion from rail to motor carriage or an increase in rail traffic exceeding either the threshold of eight or three trains per day.⁴ Accordingly, the transaction is categorically excluded from environmental review. *See* 49 C.F.R. § 1105.6(c)(1).

Because Union Pacific is not proposing an action that will result in the lease, transfer, or sale of its lines, sites, or structures, no historic report is required. *See* 49 C.F.R. § 1105.8. The proposed action is simply a reinstitution of common carrier service over an abandoned line and will have no other effect on railroad properties.

CONCLUSION

For the reasons stated above, Union Pacific requests that the Board exempt the proposed transaction from the prior approval requirements of 49 U.S.C. § 10901.

⁴ *See* STB Office of Environmental Analysis, Draft Environmental Assessment, *Savage Tooele Railroad Company—Construction & Operation—Line of Railroad in Tooele County, Utah*, FD 36616, at 1-1 (Sept. 29, 2023) (“STR forecasts that it would operate one round trip train (two trains per day, one in each direction . . .”).

Respectfully submitted,

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VERIFICATION

I, Shelly Huckfeldt, Manager-Industrial Development for Union Pacific Railroad Company, declare under penalty of perjury that I have read the foregoing Petition for Exemption and that the information contained therein is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on November 20, 2023.

/s/ Shelly Huckfeldt

