

SERVICE DATE – MARCH 4, 2020

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36379

LOUISIANA & DELTA RAILROAD, INC.—LEASE AMENDMENT AND OPERATION
EXEMPTION—UNION PACIFIC RAILROAD COMPANY

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision waives a 60-day advance notice requirement and allows Louisiana & Delta Railroad, Inc., to enter into a replacement lease with Union Pacific Railroad Company and continue to operate approximately 10.43 miles of rail line in Louisiana, on or after March 6, 2020.

Decided: March 3, 2020

On February 5, 2020, Louisiana & Delta Railroad, Inc. (LDRR), a Class III rail carrier, filed a verified notice of exemption² under 49 U.S.C. § 10902 to amend, supersede, and replace two existing leases entered into between LDRR and Union Pacific Railroad Company (UP) on January 17, 1992, and subsequently amended. Under the new lease agreement (the Consolidated Lease), LDRR would continue to lease and operate approximately 10.43 miles of UP rail line in Louisiana (the Line).

In its verified notice, LDRR certifies that its projected annual revenues will exceed \$5 million after the transaction. Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require LDRR, at least 60 days before the exemption becomes effective, to post a notice of its intent to undertake the proposed transaction setting forth certain information at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, the verified notice includes a request for waiver of those notice requirements.

Notice of LDRR's lease amendment and operation exemption was served and published in the Federal Register on February 21, 2020 (85 Fed. Reg. 10,203). The published notice

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² LDRR initially submitted its verified notice on January 16, 2020. However, on February 5, 2020, LDRR filed a supplement to provide more detailed maps. In light of that supplement, February 5, 2020 is deemed the filing date of the verified notice.

announced that the Board would establish the effective date of the exemption in a separate decision on the waiver request.

In its request for waiver of the labor notice requirements, LDRR argues that it should not be required to comply with the requirements of § 1150.42(e) because there will be no changes for any employees working on the Line. (Verified Notice 6.) LDRR states that no employees of UP have worked on the Line since 1996, and there are no employees of UP who will be affected as a result of the extended term of the Consolidated Lease. (*Id.*) LDRR further states that LDRR currently leases the Line from UP and the Consolidated Lease would merely update the terms of the earlier lease agreements. (*Id.*) According to LDRR, there will be no operational changes, and no employees of LDRR will be affected. (*Id.*) Therefore, LDRR argues, under the circumstances of this transaction, compliance with the 60-day labor notice requirements would not further the purpose of the regulation and it should therefore be waived. (*Id.*) No opposition to this waiver request has been filed.

DISCUSSION AND CONCLUSIONS

The purpose of the notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation. The Board takes seriously the notice requirements, but it does not appear that the purpose behind the requirements would be thwarted if the requested waiver is granted in this case.

The record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirements here. LDRR states that no UP employees would be affected because none have worked on the Line since 1996 and that no LDRR employees will be affected as there will be no operational changes on the Line as a result of the Consolidated Lease.

Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. Accordingly, the related lease amendment and operation exemption, unless stayed, will become effective on March 6, 2020, the effective date under the Board's rules absent the notice requirement. See, e.g., N.C. & Va. R.R., Chesapeake & Albemarle R.R. Div.—Lease Amendment & Operation Exemption Including Interchange Commitment—Norfolk S. Ry., FD 36252, slip op. at 3 (STB served Dec. 14, 2018).

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. LDRR's request for waiver is granted.
2. LDRR's exemption will be effective on March 6, 2020, unless stayed.

3. This decision is effective on its date of service.

By the Board, Board Members Begeman, Fuchs, and Oberman.