

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36391]

Portland & Western Railroad, Inc.—Amended Lease and Operation Exemption
Containing Interchange Commitment—BNSF Railway Company

Portland & Western Railroad, Inc. (PNWR), a Class III railroad, has filed a verified notice of exemption pursuant to 49 C.F.R. § 1150.41 to continue to lease from BNSF Railway Company (BNSF) and operate a BNSF rail line between milepost 64.70 (located on main track between Quinaby and Salem, Ore.) and milepost 141.45, at the end of track, near Eugene, Ore., a total distance of approximately 76.75 miles (the Line). PNWR states that it has entered into a lease agreement (New Lease) with BNSF that supersedes and replaces a previous lease (Original Lease) that took effect in 2003.¹

PNWR states that it is currently the operator of the Line under the Original Lease. PNWR states that the New Lease extends the term for an additional 10 years, with an automatic renewal date for an additional 10-year term, and makes other commercial changes.

¹ See Portland & W. R.R.—Lease & Operation Exemption—The Burlington N. & Santa Fe Ry., Docket No. FD 34255 (STB served Jan. 3, 2003). PNWR states that the Original Lease ended on February 29, 2020, and that PNWR and BNSF executed the New Lease effective March 1, 2020. PNWR also states that it will continue to operate under the terms of the Original Lease until the New Lease is authorized.

PNWR certifies that the New Lease contains an interchange commitment that is similar to the interchange commitment that was included in the Original Lease.²

Accordingly, PNWR has provided additional information regarding the interchange commitment, as required by 49 C.F.R. § 1150.43(h).

PNWR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. PNWR also certifies that its revenues currently exceed \$5 million. Pursuant to 49 C.F.R. § 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction 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, PNWR's verified notice includes a request for waiver of the 60-day advance labor notice requirements. PNWR's waiver request will be addressed in a separate decision. The Board will establish the effective date of the exemption in its separate decision on the waiver request.

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 effectiveness of the exemption. Petitions for stay must be filed no later than April 23, 2020.

² A copy of the New Lease with the interchange commitment was submitted under seal. See 49 C.F.R. § 1150.43(h)(1).

All pleadings, referring to Docket No. FD 36391, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on PNWR's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave., N.W., Suite 1300 South, Washington, DC 20004.

According to PNWR, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b).

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

Decided: April 10, 2020

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.