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SERVICE DATE – MAY 28, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36491]

The Cincinnati Railway Company—Modified Rail Certificate

The Cincinnati Railway Company (CNRy) has filed a notice for a modified certificate of public convenience and necessity under 49 C.F.R. part 1150 subpart C—Modified Certificate of Public Convenience and Necessity, to operate a rail line extending approximately 5.6 miles between milepost 1.10 in Lebanon, Ohio, southerly to milepost 6.70 at Hageman Junction, all in Warren County, Ohio (the Line). CNRY states that the Line is owned by the City of Lebanon, Ohio (the City).

CNRY states that the Line previously was owned by the Penn Central Corporation (Penn Central), as successor to the Pennsylvania Railroad System, and that Penn Central sold the Line to the City in 1981. (Notice 4.)¹ CNRY states that the City has engaged various carriers to operate the Line, including the Indiana & Ohio Railway Company (IORY) and its corporate predecessor, the Indiana & Ohio Railroad Company (IOR).²

¹ The verified notice includes evidence of the City's purchase in 1981. (Notice, Ex. D.)

² CNRY states that IORY acquired only an operating interest in the Line and argues that a prior filing by IORY incorrectly indicated that IORY acquired the Line, which left the Board and its predecessor, the Interstate Commerce Commission, with the mistaken impression that IORY owned the line. (Notice 3 & n.7.) See Ind. & Ohio Ry.—Acquis. & Operation Exemption—Ind. & Ohio R.R., FD 30960 (ICC served Feb. 4, 1987) (stating that IORY owned the Line); see also Ind. & Ohio Ry.—Discontinuance of Serv. Exemption—in Warren Cnty., Ohio, AB 1297X, slip op. at 1 n.1 (STB served Feb. 28, 2020) (stating that IORY owned the Line).

CNRY and the City have signed an agreement authorizing CNRY to operate the Line until January 28, 2025. CNRY filed a copy of the agreement under seal. (See Notice, Ex. E.)

According to CNRY, the sole connection for the Line is with IORY at Hageman Junction.

The Line qualifies for a modified certificate of public convenience and necessity. See Common Carrier Status of States, State Agencies & Instrumentalities & Pol. Subdivisions, FD 28990F (ICC served July 16, 1981); 49 C.F.R. § 1150.22.

CNRY states that no subsidy is involved and there are no preconditions that shippers must meet to receive rail service, except those consistent with the Board's general regulation of common carrier service. CNRY also provides information regarding the nature and extent of its liability insurance coverage. See 49 C.F.R. § 1150.23(b)(4)-(5).

This notice will be served on the Association of American Railroads (Car Service Division), as agent for all railroads subscribing to the car-service and car-hire agreement, at 425 Third Street, S.W., Suite 1000, Washington, DC 20024; and on the American Short Line and Regional Railroad Association at 50 F Street, N.W., Suite 7020, Washington, DC 20001.

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

Decided: May 24, 2021.

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