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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36545]

Dallas, Garland & Northeastern Railroad, Inc.—Lease and Operation Exemption

Including Interchange Commitment—Union Pacific Railroad Company

Dallas, Garland & Northeastern Railroad, Inc. (DGNO), a Class III railroad, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to amend its lease and continue to operate approximately 30.7 miles of rail line in Texas owned by Union Pacific Railroad Company (UP) (the Lines). The Lines consist of: (1) a portion of the Garland Subdivision (also known as the Greenville Subdivision) from milepost 741.3 near Lake Ray Hubbard to milepost 713.6 at Greenville, Tex.; and (2) the Sprecher Lead (also known as the Safeway Lead) at Garland, Tex. DGNO states that the Sprecher Lead has no official mileposts, but DGNO informally designates the mileposts as extending from milepost 0 to milepost 3 beginning at the switch at milepost 753.4.

According to the verified notice, DGNO has leased and operated the Lines since at least 2001. DGNO states that, pursuant to an amended lease agreement (Amended Lease) with UP, DGNO's operations over the Lines will be extended for an additional 10 years.¹

¹ According to DGNO, in preparing the verified notice, it determined that DGNO's acquisition of Board authority for lease and operation of the Lines under the current lease appears to be incomplete because the authority only applies to a portion of the Garland Subdivision and none of the Sprecher Lead. See Dall., Garland & Ne.

Further, DGNO certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier, but that its current annual revenues 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 this exemption is to become 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, DGNO has petitioned for waiver of the 60-day advance labor notice requirements. DGNO's waiver request will be addressed in a subsequent decision, and the effectiveness of the exemption will be postponed pending that decision.

As required under 49 C.F.R. § 1150.43(h)(1), DGNO has disclosed in its verified notice that its lease agreement with UP contains an interchange commitment pertaining to interchange with carriers other than UP. DGNO has provided additional information regarding the interchange commitment as required by 49 C.F.R. § 1150.43(h).²

If the 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

R.R.—Lease Exemption—Union Pac. R.R., FD 33686 (STB served Feb. 5, 1999) (granting authority to operate on milepost 741.3 to milepost 729.5 of the Garland Subdivision, among others). DGNO states that, in addition to seeking authority to operate under the Amended Lease, it also is seeking to correct the Board's records of the lines operated by DGNO and to confirm its authority to operate on the Lines. This request will be addressed in a subsequent decision.

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

time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than November 26, 2021.

All pleadings, referring to Docket No. FD 36545, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on DGNO's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

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

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

Decided: November 16, 2021.

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