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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36617]

Toledo, Peoria & Western Railway Corp.—Trackage Rights Exemption—Keokuk Junction Railway Co.

Toledo, Peoria & Western Railway Corp. (TPW), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for overhead trackage rights over approximately 3.9 miles of rail line owned by Keokuk Junction Railway Company (KJ) between the Union Pacific Railroad Company (UP) interchange at milepost 118.5, near Hollis (a/k/a Sommer), Ill., and milepost 122.4, near Mapleton, Ill. (the Line).

TPW and KJ have entered into a written trackage rights agreement that grants TPW trackage rights over the Line, allowing TPW to access the TPW-owned Mapleton Industrial Spur on one end of the Line and trackage rights it holds over a UP line on the other end of the Line.¹

The transaction may be consummated on or after July 9, 2022, the effective date of the exemption.

¹ A redacted version of the trackage rights agreement between TPW and KJ was filed with the verified notice. An unredacted version of the agreement was submitted to the Board under seal concurrently with a motion for protective order, which is addressed in a separate decision.

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. § 11326(c) does not provide for labor protection for transactions under 49 U.S.C. §§ 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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 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 July 1, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36617, must be filed with the Surface Transportation Board via e-filing on the Board's website 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 TPW's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to TPW, 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: June 21, 2022.

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