

SERVICE DATE – MAY 30, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36759

TARANTULA CORPORATION—ACQUISITION OF CONTROL
EXEMPTION—TEXAS CENTRAL RAILROAD COMPANY

Digest:¹ This decision authorizes Tarantula Corporation to acquire the controlling stock of Texas Central Railroad Company.

Decided: May 30, 2024

By petition filed on March 22, 2024, Tarantula Corporation (Tarantula), seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323 to acquire control of Texas Central Railroad Company (Texas Central), a Class III carrier, through the purchase of all outstanding Texas Central capital stock from Birdsong Corporation (Birdsong).² As discussed below, the Board will grant the exemption.

BACKGROUND

Tarantula is a noncarrier holding company that controls Fort Worth & Western Railroad Company (FWWR), Fort Worth & Dallas Railroad Company, and Fort Worth & Dallas Belt Railroad Company, all of which are Class III rail carriers. (Pet. 1 & n.1); see also Tarantula Corp.—Continuance in Control Exemption—Fort Worth & Dall. Belt R.R., FD 32515 (ICC served July 25, 1994).

Pursuant to a stock purchase agreement dated March 21, 2024, Tarantula has reached an agreement to acquire from Birdsong all of the outstanding capital stock of Texas Central. (See Pet., Ex. B at 1.) Upon consummation of this transaction, Tarantula would indirectly control Texas Central. (Id.) According to the petition, Texas Central owns—but does not operate—24.9 miles of rail line running from Dublin, Tex., to Gorman, Tex. (the Line). (Pet. 2.) FWWR, a

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 Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² Texas Central Railroad Company is a separate and distinct entity from Texas Central Partners, LLC, which is proposing to construct high-speed passenger rail between Dallas-Fort Worth and Houston, Tex.

Tarantula subsidiary, has leased and operated the Line since 1998. (*Id.*); see also Fort Worth & W. R.R.—Acquis. Exemption—S. Orient R.R., FD 33681 (STB served Nov. 30, 1998).³

In support of the petition, Tarantula asserts that the transaction will allow it to make capital improvements to infrastructure on the Line. (Pet. 3, 7.) Tarantula states that, as FWWR already operates over the Line, the transaction will not affect the level of operations or maintenance of the Line or any of the other lines operated by the other railroads in the Tarantula corporate family. (*Id.* at 6-7.) Tarantula has attached to the petition letters supporting the transaction from both shippers located on the Line, Birdsong and Gorman Milling Company, Inc. (See Pet., Ex. C.) Tarantula has also asked the Board for expedited consideration of its petition and a decision issued and effective by June 15, 2024. (Pet. 7.) Tarantula states that it would like an earlier effective date to commence infrastructure improvements on a faster schedule in support of increased safety, improved reliability, enhanced efficiency, and improved connectivity which can lead to greater marketability and competitiveness for communities and businesses in the rural area served by FWWR. (*Id.*) Tarantula further states that an earlier effective date would support an expansion project and make a stronger application for a CRISI grant. (*Id.*)

DISCUSSION AND CONCLUSIONS

The acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers requires prior approval from the Board under 49 U.S.C. 11323(a)(5). Under 49 U.S.C. 10502(a), however, the Board shall, to the maximum extent consistent with Title 49, subtitle IV, part A, exempt a transaction or service from regulation upon finding that (1) the regulation is not necessary to carry out the rail transportation policy (RTP) under 49 U.S.C. 10101 and (2) either the transaction or service is of limited scope, or regulation is not needed to protect shippers from the abuse of market power.

Here, an exemption from the prior approval requirements of 49 U.S.C. 11323-25 is consistent with the standards of 49 U.S.C. 10502. Detailed scrutiny of the proposed transaction through an application for review and approval under sections 11323-25 is not necessary to carry out the RTP. An exemption would promote the RTP by minimizing the need for federal regulatory control over the transaction, 49 U.S.C. 10101(2), reducing regulatory barriers to entry, 49 U.S.C. 10101(7), encouraging efficient management of railroads, 49 U.S.C. 10101(9), and providing for the expeditious resolution of this proceeding, 49 U.S.C. 10101(15). Further, Tarantula asserts that the acquisition will allow it to make capital improvements to infrastructure on the Line. (Pet. 3, 7.) Therefore, an exemption would promote the RTP by ensuring the development and continuation of a sound rail transportation system that would continue to meet the needs of the public, 49 U.S.C. 10101(4), and fostering sound economic conditions in transportation, 49 U.S.C. 10101(5). Other aspects of the RTP would not be adversely affected.

³ Texas Central's Line connects with FWWR's rail line at Dublin. Tarantula explains that, for that reason, the transaction does not qualify for the class exemption under 49 CFR 1180.2(d)(2). (Pet. 1.)

Regulation of the transaction is not needed to protect shippers from abuse of market power.⁴ The record indicates that Texas Central does not conduct freight rail operations over the Line; rather, FWWR has leased and operated the Line since 1998. (Pet. 2.) Tarantula states that the transaction will have no adverse effect on rail operations over the Line because FWWR will continue operations over it. (*Id.* at 1, 5.) Thus, the proposed transaction will not result in any material changes to the services available to shippers along the Line. Moreover, there have been no objections to the proposed transaction, and the shippers along the Line have filed letters supporting the transaction. (Pet., Ex. C.)

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. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III carriers. Therefore, because all carriers involved in the transaction are Class III carriers, the Board may not impose labor protective conditions.

The acquisition of control is exempt from environmental reporting requirements under 49 CFR 1105.6(c)(1) because it will not result in significant changes in carrier operations. Similarly, under 49 CFR 1105.8(b)(3), no historic report is required because the proposed transaction will not substantially change the level of operations or maintenance of railroad properties.

As noted, Tarantula has requested expedited consideration of its petition for exemption. The Board finds that Tarantula's request is reasonable under the circumstances. Accordingly, the effective date of the exemption will be June 15, 2024. *See* 49 CFR 1121.4(e) ("Unless otherwise specified in the decision, an exemption generally will be effective 30 days from the service date of the decision."). Petitions for stay must be filed by June 7, 2024. Petitions to reopen will be due by June 20, 2024.

It is ordered:

1. Under 49 U.S.C. 10502, the Board exempts the above transaction from the prior approval requirements of 49 U.S.C. 11323-25.
2. Notice of this exemption will be published in the Federal Register.
3. This decision will be effective on June 15, 2024. Petitions for stay must be filed by June 7, 2024. Petitions to reopen must be filed by June 20, 2024.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

⁴ Given this finding, the Board need not determine whether the transaction is limited in scope. *See* 49 U.S.C. 10502(a).