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SERVICE DATE – FEBRUARY 7, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36818

CENTRAL OREGON & PACIFIC RAILROAD, INC.—LEASE AND OPERATION
EXEMPTION INCLUDING INTERCHANGE COMMITMENT—
UNION PACIFIC RAILROAD COMPANY

Decided: February 7, 2025

On December 10, 2024, Central Oregon & Pacific Railroad, Inc. (CORP), a Class III rail carrier, filed a verified notice of exemption pursuant to 49 C.F.R. § 1150.41 to lease from Union Pacific Railroad Company (UP) and operate: (1) the Brooklyn Subdivision from milepost 616 to milepost 660.58; (2) the Springfield and Marcola Industrial Leads from milepost 646.58 to milepost 648.39 in Springfield, Or.; and (3) the Coos Bay Industrial Lead from milepost 648.2 to milepost 652.11 in Eugene, Or. The lines total approximately 27.58 miles. Notice of the exemption was served on December 20, 2024, and published in the Federal Register on December 26, 2024 (89 Fed. Reg. 105,173). The exemption was scheduled to become effective on February 8, 2025.

On February 3, 2025, the Brotherhood of Railroad Signalmen (BRS), whose members, according to BRS, are responsible for all signal systems and highway-rail grade crossings on all Class I railroads, filed comments asserting that it was not served with advance notice of the transaction. (BRS Comment 1.) BRS notes that the transaction involves ten highway-rail grade crossings and that it thus “should have been included in the notification process” required under 49 C.F.R. § 1150.42(e). (BRS Comment 1.) In a reply filed February 4, 2025, CORP does not directly address the issue of whether it was required to serve advance notice on BRS under 49 C.F.R. § 1150.42(e) and notes that “BRS did not call for the Board to reject the notice of exemption.” (CORP Reply 2.)¹

Under 49 C.F.R. § 1150.42(e), if the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier’s projected annual revenue, will exceed \$5 million, the carrier must, at least 60 days before the associated 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. In its

¹ In its reply, CORP also addressed other comments filed in opposition to the transaction, as well as the petition to reject filed by the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Union. The Board will address the petition, CORP’s reply, as well as the other comments in this proceeding, in a separate decision.

verified notice, CORP certified that its annual revenues will exceed \$5 million and that it had complied with 49 C.F.R. § 1150.42(e), including serving a copy of the certification and the verified notice on the national offices of the labor unions for those employees. (Notice 5 & Ex. C.) However, it does not appear that CORP served notice on BRS, and CORP provides no explanation in its response for why BRS was not served or explicitly argue the regulation does not apply. Accordingly, CORP shall, within five days after service of this decision, serve a copy of the notice required by 49 C.F.R. § 1150.42(e) on BRS at its national office and certify to the Board that it has done so. The notice of exemption will not become effective until 60 days after CORP certifies to the Board that it has complied with 49 C.F.R. § 1150.42(e) as it pertains to BRS.

It is ordered:

1. By February 12, 2025, CORP shall serve a copy of its notice of intent to undertake the proposed transaction on BRS at its national office and certify to the Board that it has done so.
2. The exemption will become effective 60 days after CORP's certified compliance to the Board.
3. This decision is effective on its date of service.

By the Board, Mai T. Dinh, Director, Office of Proceedings.