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SERVICE DATE – APRIL 25, 2025

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36826]

Portland & Western Railroad, Inc.—Lease and Operation Exemption Including
Interchange Commitment—Union Pacific Railroad Company

Portland & Western Railroad, Inc. (PNWR), a Class III railroad, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease from Union Pacific Railroad Company (UP) and operate approximately 47.20 miles of rail line in Oregon (the Lines). The Lines consist of: (1) the approximately 23.91-mile Tillamook Branch, between milepost 740.72 near Willsburg and milepost 749.95 near Tigard, and between milepost 755.43 near Beaverton and milepost 770.50 near Schefflin;¹ (2) the 9.45-mile Westside-Seghers Branch, between milepost 764.80 near Hillsboro and milepost 754.57 near Seghers;² and (3) the 14.32-mile Newberg Branch, between milepost 763.99 near Cook and milepost 749.67 near Newberg.

¹ PNWR initially submitted its verified notice of exemption on April 4, 2025, but supplemented it on April 11, 2025, by, among other things, correcting the description of the lines subject to the lease. According to PNWR, approximately 5.48 miles of rail line, extending from milepost 749.95 to milepost 755.43, are not subject to the lease because PNWR holds authority to operate this segment via a perpetual freight easement. See Portland & W. R.R.—Acquis. & Operation Exemption—Union Pac. R.R., FD 34792 (STB served Nov. 24, 2006). In light of PNWR's supplement, April 11, 2025, is considered the filing date of the verified notice.

² According to PNWR, while the distance noted here is correct, the mileposts have not been redesignated to reflect a previous abandonment.

According to the verified notice, in 1995, PNWR entered into an agreement with UP's predecessor on the Lines, the Southern Pacific Transportation Company (SP),³ to lease and operate the Lines. See Portland & W. R.R.—Lease & Operation Exemption—S. Pac. Transp. Co., FD 32758 (ICC served Sept. 13, 1995). PNWR states that the original lease was for a period of 10 years and automatically extended into 2025. PNWR further states that PNWR and UP have amended the original lease numerous times⁴ and that the parties have agreed to further extend the term and to make other commercial revisions. According to PNWR, it will continue to be the operator on the Lines after the transaction.

According to the verified notice, the lease agreement with UP contains an interchange commitment pertaining to interchange with carriers other than UP. PNWR has provided additional information regarding the interchange commitment as required by 49 CFR 1150.43(h).⁵

PNWR certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier and that its current annual

³ PNWR states that UP succeeded to the rights of SP as a result of the merger authorized in Union Pacific Corp.—Control & Merger—Southern Pacific Rail Corp., 1 S.T.B. 233 (1996).

⁴ PNWR does not indicate whether it believes authority from the Board was necessary for the previous amendments. The class exemption invoked by PNWR does not provide for retroactive effectiveness. See Cent. N.Y. R.R.—Lease & Operation Exemption Including Interchange Commitment—Norfolk S. Ry., FD 36825, slip op. at 2 n.3 (STB served Mar. 28, 2025).

⁵ Concurrent with the initial filing of its verified notice of exemption, PNWR filed, under seal, portions of the amended lease. See 49 CFR 150.43(h)(1) (providing that certain information related to interchange commitments, such as copies of agreements, will be kept confidential without an accompanying motion for a protective order). In its April 11 supplement, PNWR provided, under seal, the full amended agreement.

revenues exceed \$5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it must, at least 60 days before the 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. PNWR, however, has petitioned for waiver of the 60-day advance labor notice requirements. PNWR's waiver request will be addressed in a separate decision. The Board will establish the effective date of the exemption in its separate decision on the waiver request.

If the verified 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 to stay must be filed no later than May 2, 2025.

All pleadings, referring to Docket No. FD 36826, must be filed with the Surface Transportation Board either 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 PNWR's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Avenue, N.W., Suite 1300 South, Washington, DC 20004.

According to PNWR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

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

Decided: April 22, 2025.

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