

SERVICE DATE – MAY 9, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36826

PORTLAND & WESTERN RAILROAD, INC.—
LEASE & OPERATION EXEMPTION INCLUDING INTERCHANGE COMMITMENT—
UNION PACIFIC RAILROAD COMPANY

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision waives a 60-day advance notice requirement and allows Portland & Western Railroad, Inc., to continue to lease and operate approximately 47.20 miles of rail line in Oregon, on or after May 11, 2025.

Decided: May 8, 2025

On April 11, 2025, Portland & Western Railroad, Inc. (PNWR), a Class III railroad, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to amend its lease and continue to operate approximately 47.20 miles of rail line in Oregon owned by Union Pacific Railroad Company (UP).² The rail line consists of the following segments: (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; (2) the 9.45-mile Westside-Seghers Branch, between milepost 764.80 near Hillsboro and milepost 754.57 near Seghers;³ and (3) the 14.32-mile Newberg Branch, between milepost 763.99 near Cook and milepost 749.67 near Newberg (collectively, the Lines).

PNWR states that, in 1995, it entered into an agreement with UP's predecessor on the Lines, the Southern Pacific Transportation Company, to lease and operate the Lines. (Verified Notice 3); see also Portland & W. R.R.—Lease & Operation Exemption—S. Pac. Transp., 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. (Verified Notice 3.) PNWR states that PNWR and UP have amended the original lease numerous times and that the parties have agreed to

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 PNWR initially filed its verified notice on April 4, 2025. PNWR filed a supplement on April 11, 2025, which was therefore deemed the filing date of the verified notice.

³ According to PNWR, while the distance noted here is accurate, the mileposts have not been redesignated to reflect a previous abandonment. (Verified Notice 4 n.1.)

further extend the term and to make other commercial revisions. (Id. at 3-4.) In its verified notice, PNWR certifies that its revenues currently exceed \$5 million. (Id. at 6.) Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require PNWR, at least 60 days before the exemption becomes effective, to post a notice of its intent to undertake the proposed transaction setting forth certain information 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, the verified notice includes a request for waiver of those notice requirements. (Id. 7-8.)

Notice of PNWR's exemption was served and published in the Federal Register on April 25, 2025 (90 Fed. Reg. 17,500). The published notice announced that the Board would establish the effective date of the exemption in a separate decision on the waiver request.

In its request for waiver, PNWR argues that the labor notice requirements are unnecessary because the proposed transaction would result in no changes for any employees working on the Lines. (Verified Notice 7.) According to PNWR: (1) no PNWR employees would be affected by the proposed transaction; (2) there would be no operational changes; (3) no employees of UP or its predecessor have worked on the Lines since 1995; and (4) no UP employees would be affected by the transaction. (Id. at 7-8.) No opposition to this waiver request has been filed.

DISCUSSION AND CONCLUSIONS

The purpose of the notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.

Here, however, it does not appear that the purpose behind the requirements would be thwarted if the requested waiver is granted. The record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirements. PNWR is the sole operator of the Lines and has been since 1995; PNWR further states that there would be no changes for any PNWR employees working on the Lines as a result of the proposed transaction. (Verified Notice 7-8.) Moreover, PNWR indicates that UP has no employees who would be affected by the transaction. (Id. at 8.)

Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. Accordingly, PNWR's lease and operation exemption, unless stayed, will become effective on May 11, 2025, the effective date under the Board's rules absent the notice requirement.

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. PNWR's request for waiver is granted.

2. PNWR's exemption will be effective on May 11, 2025, unless stayed.
3. This decision is effective on its date of service.

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