

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36867

THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY—  
LEASE AND OPERATION EXEMPTION INCLUDING INTERCHANGE COMMITMENT—  
CSX TRANSPORTATION, INC.

Digest:<sup>1</sup> This decision permits the Columbus & Ohio River Rail Road Company to extend its lease and operation of approximately 82.15 miles of CSX Transportation, Inc., rail lines in Ohio, subject to standard employee protective conditions. The decision also waives a 60-day advance labor notice requirement.

Decided: May 15, 2026

On August 18, 2025, the Columbus & Ohio River Rail Road Company (CUOH), a Class II rail carrier, filed a petition under 49 U.S.C. 10502 for an exemption from the prior approval requirements of 49 U.S.C. 10902 to extend the term of, and to make other minor commercial changes to, its current lease (the Lease) with CSX Transportation, Inc. (CSXT). The rail lines subject to the lease amendment (the Lease Amendment) include the following segments, totaling approximately 82.15 miles (together, the Leased Lines): (1) milepost BQ 0.0 at or near Newark, Ohio to milepost BQ 25.90 at or near Mt. Vernon, Ohio; (2) milepost BP 49.49 at or near Cambridge, Ohio, to milepost 100.60 at or near Newark, Ohio; and (3) milepost PB 0.00 at or near Cambridge, Ohio, to milepost BPB 5.14 at or near Byesville, Ohio. CUOH concurrently filed a petition for waiver of the 60-day advance notice requirement at 49 CFR 1121.4(h). For the reasons discussed below, the Board will grant the petition for exemption and the petition for waiver.

BACKGROUND

CUOH owns or operates approximately 243 miles of rail line in Ohio. (CUOH Pet. 2.) In 2004, CUOH entered into the Lease and a freight operating agreement (FOA) with CSXT for CUOH to lease and operate the Leased Lines. Columbus & Ohio River Rail Road Co.—Acquis. & Operation Exemption—Rail Lines of CSX Transp. FD 34540 (STB served Dec. 20, 2004). CUOH and CSXT have now agreed to amend the Lease to further extend the term of the Lease and make other commercial changes. (CUOH Pet. 3.)

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<sup>1</sup> 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).

CUOH states in support of its filing that CUOH and CSXT are only entering into an extension of a lease agreement that the Board has previously approved, that the Leased Lines extend only 82.15 miles and are located entirely in the State of Ohio, and that the transaction does not require use of the Board's extensive application process.<sup>2</sup> (*Id.* at 4.) Pursuant to 49 CFR 1121.3(d), CUOH has certified that the FOA associated with the Lease includes an interchange commitment that potentially affects interchange with carriers other than CSXT. (CUOH Pet. 5.) CUOH submitted additional information required in accordance with 49 CFR 1121.3(d).

CUOH also petitions the Board for a waiver of the 60-day notice requirement under 49 CFR 1121.4(h). Unless waived, section 1121.4(h) would require CUOH, 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. CUOH argues that the labor notice requirements should be waived because there will be no changes for any employees working on the Leased Lines. (CUOH Pet. 8.) CUOH already leases the rail facilities, has been the sole common carrier operator of the Leased Lines since 2004, and will continue to be the sole common carrier operator of the Leased Lines. (*Id.*) CUOH also states that no employees of the transferring carrier, CSXT, have worked on the Leased Lines since 2004, and there are no employees of CSXT who will be affected as a result of the Amended Lease. (*Id.*) CUOH asserts that, as a result, posting notices on the Leased Lines would not provide notice to any CSXT employees. (*Id.*) Finally, CUOH asserts there will be no operational changes and no employees of CUOH will be affected. (*Id.*) By decision served on November 14, 2025, the Board instituted a proceeding under 49 U.S.C. 10502(d).

## DISCUSSION AND CONCLUSIONS

Exemption from 49 U.S.C. 10902. Under 49 U.S.C. 10902, the acquisition of a rail line by a Class II rail carrier requires the prior approval of the Board. 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 when it finds that: (1) regulation is not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not needed to protect shippers from the abuse of market power.

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<sup>2</sup> CUOH states that, following the original expiration date under the Lease, it entered into four short-term extensions as the parties negotiated the Lease Amendment. (CUOH Pet. 3, n.1.) CUOH states that it is not seeking Board authority for those lease extensions. CUOH is reminded that all extensions of the term of a lease agreement, regardless of duration, fall under the purview of 49 U.S.C. 10902 and require prior Board approval. Under the circumstances, however, the Board will not require CUOH to file further for that authority but will grant it sua sponte based on the information provided in the petition and for the same reasons discussed below.

Detailed scrutiny of the proposed transaction under § 10902 is not necessary to carry out the RTP. Particularly given that CUOH has been the lessee and sole operator of the Leased Lines since 2004, an exemption would expedite regulatory decisions by minimizing the need for regulatory control of CUOH's operation of the Leased Lines, reduce regulatory barriers to entry, and result in the expeditious handling of this proceeding. See 49 U.S.C. 10101(2), (7), (15). Other aspects of the RTP would not be adversely affected by use of the exemption process.

Moreover, regulation of the proposed transaction under section 10902 is not needed to protect shippers from the abuse of market power.<sup>3</sup> There would be no loss of rail competition and no adverse change in the competitive balance in the transportation market, as CUOH has been the carrier providing service over the Line since 2004 and will continue in the same manner under the Amended Lease. (CUOH Pet. 8.) Additionally, CUOH states that the transaction is “not expected to change current service or service options for any shippers on the Leased Lines.” (Id. at 5.)<sup>4</sup>

Waiver of 49 CFR 1121.4(h). The purpose of the 60-day notice provision 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. The Board takes seriously the requirements of the regulation, but it does not appear that the purpose behind the notice requirement would be thwarted if the requested waiver is granted in this case.

As noted above, CSXT has no employees operating on the Leased Lines, there will be no operational changes, and no employees of CUOH will be affected. CUOH will continue to be the sole common carrier operator of the Leased Lines. (CUOH Pet. 3.) Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. See, e.g., Wis. & S. R.R.—Acquis. & Operation Exemption—City of Fitchburg, Wis., FD 35838, slip op. at 4 (STB served Nov. 18, 2014).

Employee Protection. Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a carrier of its statutory obligation to protect the interests of its employees. Section 10902(d) provides for labor protection in line acquisitions by Class II rail carriers. As a condition to this exemption, any employees affected by the acquisition will be protected as required by 49 U.S.C. 10902(d), subject to the standards and procedures established in Wis. Cent. Ltd.—Acquis. Exemption—Lines of Union Pac. R.R., 2 S.T.B. 218 (1997), aff'd in relevant part sub nom. Ass'n of Am. R.Rs. v. STB, 162 F.3d 101 (D.C. Cir. 1998).

Environmental and Historic Review. Under 49 CFR 1105.6(c)(1), this action, which will not result in significant changes in carrier operations, is categorically excluded from environmental review. Similarly, under 49 CFR 1105.8(b)(1), no historic report is required

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<sup>3</sup> Because the Board concludes that regulation is not needed to protect shippers from the abuse of market power, it is unnecessary to determine whether the Amended Lease is limited in scope. See 49 U.S.C. 10502(a).

<sup>4</sup> CUOH notes that the Amended Lease does not modify the interchange commitment in the FOA (CUOH Pet. 5), and no shipper or other interested person has objected to or raised concerns about continuation of the interchange commitment.

because the Amended Lease is for continued rail service, and CUOH has indicated no plans to alter railroad properties 50 years old or older. (CUOH Pet. 5.)

The lease and operation exemption will become effective June 17, 2026, and petitions to stay will be due by May 28, 2026. Petitions to reopen will be due by June 8, 2026. Notice of the exemption will be published in the Federal Register.

It is ordered:

1. Under 49 U.S.C. 10502, the Board exempts from the requirements of 49 U.S.C. 10902 CUOH's Lease Amendment with CSXT, subject to the employee protective conditions as provided in this decision.

2. Notice of the exemption will be published in the Federal Register.

3. CUOH's request for waiver is granted.

4. The Board will not require CUOH to file seeking authority for the four short-term extensions and instead will grant authority for the four short-term extensions sua sponte, based on the information provided in the petition.

5. The exemption will become effective June 17, 2026. Petitions to stay must be filed by May 28, 2026. Petitions to reopen must be filed by June 8, 2026.

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