SERVICE DATE – AUGUST 6, 2026

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36907

RAPID CITY, PIERRE & EASTERN RAILROAD, INC.
—ACQUISITION AND OPERATION EXEMPTION—
STATE OF SOUTH DAKOTA

Digest:[1] The Board grants Rapid City, Pierre & Eastern Railroad, Inc., the authority to acquire and operate over approximately 15.33 miles of rail line, subject to standard employee protective conditions, and waives a 60-day advance notice requirement.

Decided: August 6, 2026

On May 18, 2026, Rapid City, Pierre & Eastern Railroad, Inc. (RCPE), 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 acquire and operate over approximately 15.33 miles of rail line owned by the State of South Dakota, acting by and through its Department of Transportation (the State or SDDOT). The line of railroad at issue is known as the Huron-Yale Line, and extends between Huron, S.D., at milepost 160.33, and Yale, S.D., at approximately milepost 145, a distance of approximately 15.33 miles (the Line). RCPE concurrently filed a petition for waiver of the 60-day advance notice requirement of 49 CFR 1121.4(h). For the reasons discussed below, the Board will grant the petition for exemption and the petition for waiver.

BACKGROUND

The State acquired the Line in 2008 through a series of sales transactions where ownership of the Line was ultimately transferred by the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) to the State.[2] (Pet. 4.) RCPE explains in its filing that since 2008, the

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[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] As explained in RCPE's filing, DM&E sold the Line to the East Central Regional Railroad Authority (ECRRA) in 2008. See E. Cent. Reg'l R.R.—Acquis. Exemption—Dakota, Minn. & E. R.R., FD 35184, slip op. at 1 (STB served Nov. 5, 2008). ECRRA sold the Line to the South Dakota Railroad Authority (SDRRA), and SDRRA subsequently sold the Line to the State. See State of S.D. by & through its S.D. R.R. Auth. and its Dep't of Transp.—Acquis. Exemption—E. Cent. Reg'l R.R., FD 35185, slip op. at 1-2 (STB served Nov. 5, 2008).

State has leased the Line to ECRRA. (Pet. 4.) Between 2008 and 2014, ECRRA subleased the Line to DM&E, and following RCPE's acquisition of certain lines from DM&E in 2014, ECRRA subleased the Line to RCPE.[3] RCPE asserts it has been leasing and operating the Line since 2014. (Id. at 6.) The State and RCPE have now entered into an agreement for RCPE to purchase the Line.[4] (Id. at 4.) RCPE states that, as part of this transaction, the State and ECRRA have agreed to terminate their Line lease, and ECRRA and RCPE have agreed to terminate their Line sublease. (Id.)

According to RCPE, it does not intend to change its existing operations over the Line or make any changes in the way it currently maintains and dispatches the Line. (Id. at 5.) RCPE states in its filing that the transaction will have no impact on current RCPE, State, or ECRRA employees because these employees will be unaffected by the conversion of RCPE's leasehold interest in the Line to an ownership interest. (Id.) RCPE requests that the Board grant its petition for authority to acquire and operate the Line by September 30, 2026, so that the parties may close the transaction no later than October 31, 2026. (Id. at 2-3.)

RCPE 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 RCPE, 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. RCPE argues that the notice requirement would serve no useful purpose under the circumstances, asserts that it is clear that no railroad employees will be affected, much less adversely affected, by RCPE's purchase of the Line, and states that there will be no operational changes on the Line. (Pet. 8.) RCPE argues that posting notices on the Line would not provide any relevant notice to any State or ECRRA employees, since none are railroad employees and none work on the Line. (Id. at 5.)

No opposition to either the petition for exemption or the petition for waiver has been filed.

Following consummation of these transactions, "DM&E . . . remain[ed] the operator of the [Huron-Yale] line by virtue of having retained sublease rights in the sale agreement with ECRRA." (Id. at 2.) According to the State, this series of transactions was conducted so that the State could fund the rehabilitation of the Line. SDDOT Verified Notice 4, FD 35185 (stating that this structure is to "fund necessary rehabilitation of the line" while complying with applicable South Dakota statutes, and that "[t]hese statutory considerations are the reason for the slightly complex transactional structure" employed).

[3] See Rapid City, Pierre & E. R.R.—Acquis. & Operation Exemption Including Interchange Commitment—Dakota, Minn. & E. R.R., FD 35799 (STB served Mar. 27, 2014).

[4] In this agreement, RCPE will also acquire from the State 4.2 miles of sidetrack in Wolsey, S.D., that RCPE currently utilizes for interchange with BNSF Railway Company. (Pet. 4.) RCPE states that this track is not subject to Board jurisdiction and thus RCPE is not seeking authority to acquire it. (Id.)

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.

Detailed scrutiny of the proposed transaction under section 10902 is not necessary to carry out the RTP. An exemption from the application process would minimize the need for federal regulatory control, 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.[5] There would be no loss of rail competition and no adverse change in the competitive balance in the transportation market, as RCPE has been the carrier providing service over the Line since 2014,[6] and will continue to do so. Nor would there be a change in the level of service to any shippers, as RCPE has indicated that its "acquisition will not change the current service or service options for any shipper on the Line." (Pet. 6.)

Waiver of 49 CFR 1121.4(h). As noted, RCPE has petitioned for waiver of the 60-day notification requirement under 49 CFR 1121.4(h). The purpose of that requirement 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.

The record indicates that no railroad employees would be adversely affected by waiver of the requirement here. As RCPE explains, no railroad employees will be affected by RCPE's purchase of the Line and there will be no operational changes on the Line as a result of the transaction. (Pet. 8.) To the contrary, the record includes a letter of support from the union representing RCPE's employees.[7] (Id.) Because no employees would be adversely affected by

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[5] 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 proposed transaction is limited in scope. See 49 U.S.C. 10502(a).

[6] Rapid City, Pierre & E. R.R.—Acquis. & Operation Exemption Including Interchange Commitment—Dakota, Minn. & E. R.R., FD 35799 (STB served Mar. 27, 2014).

[7] In its filing, the International Association of Sheet Metal, Air, Rail and Transportation Workers, Transportation Division (SMART-TD) states that "converting [RCPE]'s leasehold interest into a full ownership will result in no operational changes or job reductions," (SMART-

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 Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad, 2 S.T.B. 218 (1997), aff'd in relevant part sub nom. Ass'n of American Railroads 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 because the subject transaction is for continued rail service, RCPE has indicated no plans to alter railroad properties 50 years old or older, and any abandonment would be subject to Board jurisdiction.

Effective Date. The exemption will take effect on September 5, 2026, unless it is stayed.

It is ordered:

1. Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 10902 RCPE's acquisition of and operation over the Line, subject to the employee protective conditions implementing 49 U.S.C. 10902(d) as provided in this decision.

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

3. RCPE's request for a waiver of the advance notice requirement under 49 C.F.R. 1121.4(h) is granted.

4. This exemption will become effective on September 5, 2026.

5. Petitions to stay must be filed by August 17, 2026. Petitions to reopen must be filed by August 26, 2026.

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

TD Filing Pet. 1), and that "[b]ecause no SMART-TD represented employees will be adversely affected, displaced, or subjected to changes in employment terms as a result of this purchase, SMART-TD does not object to [RCPE]'s request for a waiver of the 60-day labor notice requirement[.]" (Id.)