

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35137

THE INDIANA RAIL ROAD COMPANY—TRACKAGE RIGHTS EXEMPTION—CSX
TRANSPORTATION, INC.

Decided: September 17, 2008

By verified notice of exemption filed on April 29, 2008, and amended on May 21, 2008, and by decision served and published in the Federal Register on May 15, 2008 (73 FR 28189-90), and amended by decision served on May 22, 2008, The Indiana Rail Road Company (INRD) invoked the Board's class exemption procedures under 49 CFR 1180.2(d)(7) to acquire trackage rights over 10 miles of CSX Transportation, Inc.'s (CSXT), line of railroad. Pursuant to the parties' written trackage rights agreement, CSXT agreed to grant non-exclusive, limited local trackage rights to INRD between the connection of CSXT and INRD trackage at Sullivan, IN, at approximately CSXT milepost OZA 204.5, and the connection between CSXT's line and the tracks leading to the Sunrise Coal Company loading facility (Sunrise facility) at Carlisle, IN, at approximately CSXT milepost OZA 214.5. The trackage rights are limited to empty hopper trains moving to, and loaded hopper trains carrying coal from, the Sunrise facility, located on the line, and destined to two electric utility plants, Indianapolis Power & Light (IP&L)'s Harding Street plant at Indianapolis, IN, and Hoosier Energy's Merrom Generating Station at Merrom, IN, both located on INRD's line. The exemption became effective on May 30, 2008.

On June 19, 2008, the Brotherhood of Locomotive Engineers and Trainmen and the United Transportation Union (collectively, petitioners) filed a petition to revoke the exemption in this proceeding. On July 8, 2008, INRD replied to the petition. CSXT also filed a reply in opposition on July 9, 2008.

The petition to revoke raises issues that require further consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 10502(d) to consider petitioners' request. The parties do not need to submit additional evidence.

It is ordered:

1. Under 49 U.S.C. 10502(d), a proceeding is instituted.

2. This decision is effective on its date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan
Acting Secretary