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BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
September 18, 2019
Part of
Public Record

Finance Docket No. 33990

C & C RAILROAD, INC.
-- OPERATION EXEMPTION --
CENTERPOINT PROPERTIES, L.L.C.

UNION PACIFIC RAILROAD COMPANY'S REPLY

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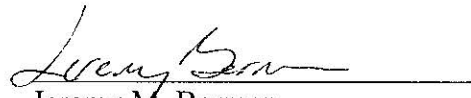
In its decision served on July 30, 2019, the Board instituted a proceeding to gather additional information in order to determine whether C&C's notice should be voided and its operating authority revoked. The information submitted by Union Pacific and C&C confirms the facts set forth in Union Pacific's petition. Based on these facts, the Board should void C&C's notice and revoke its operating authority.

Based on all available information, the tracks covered by C&C's notice did not connect to the interstate rail network when the notice was filed. C&C's notice was therefore false and misleading because it included an exhibit that depicted connecting tracks, which did not exist, and the non-existent tracks falsely implied a connection existed between C&C's track and Union Pacific's rail network. The Board then relied on the misleading exhibit in its January 17, 2001 decision. Regardless of C&C's intention at the time it filed the notice, the Board did not have jurisdiction over C&C's proposed operation. C&C's track did not connect to Union Pacific's rail network meaning C&C had no ability to conduct rail operations that would be subject to the Board's jurisdiction. If C&C had a basis to seek operating authority aside from the connection between C&C's track and Union Pacific's track (which did not exist) then C&C should have explained that in the notice. Without such an explanation the notice is false and misleading.

In its reply filed on August 28, 2019, C&C admitted that it never conducted common carrier service on its track. It is a near certainty that C&C will not conduct common carrier operations in the future because the property served by C&C's track is located inside a Union Pacific rail yard and owned by Union Pacific. Following the eviction action that Union Pacific is pursuing, this property will be used to support Union Pacific's yard operations. Thus, the Board may void C&C's notice and revoke its operating authority without fear that any shippers or potential shippers will be deprived of rail service.¹

For the foregoing reasons, Union Pacific requests that the Board find C&C's notice void and revoke the operating authority that C&C obtained in this proceeding.

Respectfully submitted,



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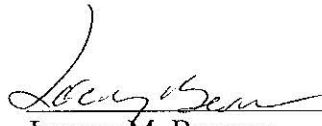
¹ Because C&C never provided common carrier service, it is also likely that C&C did not consummate its operating authority. *See Jackson County Port Authority A/K/A Port of Pascagoula--Petition for Declaratory Order*, FD 35944 (STB served July 28, 2016). If this is the case then C&C did not become a common carrier railroad subject to Board jurisdiction and the Board may simply void the notice without the need to revoke C&C's operating authority.

CERTIFICATE OF SERVICE

I hereby certify that on this 18st day of September, 2019, I caused a copy of the foregoing reply to be served by first-class mail, postage prepaid on the parties listed below.

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