

211321

JOHN D. HEFFNER, PLLC

1920 N St., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net



BY HAND

June 9, 2004

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
JUN - 9 2004
Part of
Public Record

RE: FD No. 34464, Wisconsin & Southern Railroad Co.
- Acquisition Exemption - Iowa, Chicago &
Eastern Railroad Corporation

Request for waiver from provisions of 49 CFR 1121.4(h)

Dear Mr. Williams:

On behalf of Petitioner Wisconsin & Southern Railroad Co. ("WSOR") I am filing an original and ten copies of a request for waiver from the provisions of 49 CFR 1121.4(h) to permit the acquisition by WSOR of a short line of railroad currently owned by the Iowa, Chicago & Eastern Railroad Corporation. WSOR respectfully asks the Board to grant this request expeditiously so that the transaction can be consummated on or before June 30, 2004.

I am also enclosing one check payable to the Board for \$200 to cover the applicable filing fee and a computer disk formatted in Word containing this filing. A WordPerfect copy can be provided if required.

Please date stamp and return one copy of this filing for our records.

Sincerely yours,


John D. Heffner

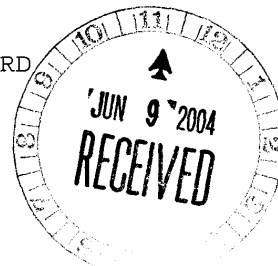
Enclosures

cc: Joseph Dettmar, Esq.
William C. Sippel, Esq.
Mr. William Gardner
Mr. Tim Karp

211321

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34464



WISCONSIN & SOUTHERN RAILROAD CO.
-- ACQUISITION EXEMPTION --
IOWA, CHICAGO & EASTERN RAILROAD CORPORATION

REQUEST FOR WAIVER FROM PROVISIONS
OF 49 CFR 1121.4(h)

EXPEDITIOUS HANDLING REQUESTED

ENTERED
Office of Proceedings
JUN - 9 2004
Part of
Public Record

Respectfully submitted,

John D. Heffner
John D. Heffner, PLLC
1920 N Street Street, N.W.
Suite 800
Washington, DC 20036
(202) 263-4180

Dated: June 8, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34464



WISCONSIN & SOUTHERN RAILROAD CO.
-- ACQUISITION EXEMPTION --
IOWA, CHICAGO & EASTERN RAILROAD CORPORATION

REQUEST FOR WAIVER FROM PROVISIONS
OF 49 CFR 1121.4(h)

COMES NOW the Wisconsin & Southern Railroad Co. ("WSOR"), and, in connection with the verified petition for exemption it filed in the above-captioned proceeding on January 30, 2004, requests that the Board waive, in part, the applicability of its regulations at 49 CFR 1121.4(h). Specifically, WSOR requests that the Board expeditiously waive the 60 day advance notice requirement of that part of Section 1121.4(h) that would otherwise prevent WSOR from consummating the subject transaction on or before June 30, 2004, and relieve it from providing notice to the national offices of railroad labor unions.

I. BACKGROUND

WSOR is an existing class II regional railroad operating in Wisconsin and the adjacent portion of northern

Illinois. WSOR proposes to purchase 7.33 miles of rail lines currently owned by the Iowa, Chicago & Eastern Railroad Corporation ("IC&E") in Janesville, Rock County, WI, (hereafter "the Lines") which WSOR has leased and operated during the past ten years. As a result of this transaction, the roles of WSOR and IC&E will be reversed. WSOR will become the owner of the property and IC&E, which is reserving trackage rights over the Lines to continue to have access to existing IC&E industries and interchanges, will become the tenant.

As noted above, WSOR had filed its Petition for Exemption in this proceeding on January 30, 2004, seeking exemption under 49 U.S.C. 10502 from the provisions of 49 U.S.C. 10902 in order to purchase the Lines. Delays in negotiating the appropriate transaction documents forced WSOR to ask that these proceedings be held in abeyance so those matters could be resolved. WSOR and IC&E have now signed the Asset Purchase Agreement and IC&E has now authorized WSOR to make this filing, post the notices, and make the requisite certification.

While WSOR acknowledges that the employee notification requirements set forth in 49 CFR 1121.4(h) apply to the subject transaction, it does not anticipate that this transaction will have any impact at all on affected

railroad employees. The same WSOR employees who currently operate and maintain the Lines will continue to do so after consummation of the purchase.¹ There will be no changes in working conditions, work rules, rates of pay, or benefits resulting from this transaction. In addition, IC&E will continue to operate over the subject railroad, albeit by retained trackage rights. The sole effect of the transaction is to allow WSOR to purchase and own the track and right of way over which it presently operates.

There is no reason for WSOR to serve the notice on the national offices of the labor unions with employees on the affected lines because WSOR is not currently an organized carrier and there is no current collective bargaining agreement between IC&E and its affected employees. Nevertheless, out of an abundance of caution, WSOR will post notices of the transaction at its employee workplaces and will certify that it has complied with 49 CFR 1121.4(h).

II. Basis for Relief Requested

WSOR requests a waiver of the Board's 60 day advance notice requirement and notice to the national offices of labor unions with affected employees requirement at 49 CFR

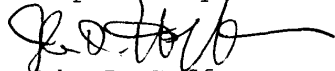
¹ The IC&E employees who maintain the line segment between MP 46.08 and MP 45.23, a distance of .85 miles, will no longer maintain that segment. However, these IC&E employees will continue to perform work elsewhere on the IC&E system. Those positions will not be abolished.

1121.4(h) under the following circumstances. As noted above, WSOR (or its predecessor) has been providing service on the Lines for roughly 10 years. The sole impact of this transaction will merely be to convert its leasehold interest into an ownership interest and will have no adverse effect on any railroad employees. WSOR currently has no organized employees and there is no current collective bargaining agreement with IC&E's affected employees. Moreover, those IC&E employees will continue to have other work and their positions will not be abolished. WSOR needs to consummate this acquisition on or before June 30, 2004, because its seller, the IC&E, has made a closing by or before that date a condition of the transaction. Otherwise, WSOR will be required to pay an additional fee of \$50,000. Moreover, WSOR notes that the Board has granted waivers for itself in at least one previous transaction involving similar circumstances. See, STB FD. No. 34285, Wisconsin & Southern Railroad Co.-Acquisition Exemption-Soo Line Railroad Company d/b/a Canadian Pacific Railway (served Jan. 17, 2003) (involving WSOR's acquisition of a 32.5 mile long line of railroad which it had been operating since 1998).

III. CONCLUSION

For the following reasons, WSOR respectfully asks that its request for waiver of the 60 day advance notice provision and notice to the national offices of labor unions with affected employees provision at 49 CFR 1121.4(h) be granted expeditiously, in order that WSOR may consummate the subject transaction on or before June 30, 2004, in accordance with the closing schedule sought by IC&E.

Respectfully submitted,



John D. Heffner
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, D.C. 20036
Telephone: (202)263-4180

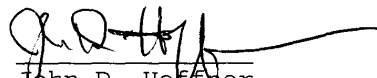
Counsel for Petitioner
Wisconsin & Southern Railroad Co.

Dated: June 8, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have, this 9th day of June 2004, served a copy of the foregoing document upon the national offices of the labor union listed below by means of First Class United States Mail.

Mr. D.M. Hahs,
International President
Brhd of Locomotive Engineers
1370 Ontario Street
Mezz Floor Standard Bldg.
Cleveland, OH 44113


John D. Heffner

STB Finance Docket No.34464
WISCONSIN & SOUTHERN RAILROAD CO.

NOTICE OF INTENT TO PURCHASE

PURSUANT TO 49 U.S.C. 10902 AND
49 CFR 1121.4 (h)

Pursuant to Surface Transportation Board regulations at 49 CFR 1121.4(h), Wisconsin & Southern Railroad Co. ("WSOR"), hereby offers notice to WSOR employees that on or before June 30, 2004, WSOR proposes to purchase certain rail assets of the Iowa, Chicago & Eastern Railroad Corporation ("IC&E"), which it currently operates under lease, including yard and ancillary tracks and structures, as follows:

between the division of ownership at MP 94.49 on Buyer's line to Fox Lake, IL, and the division of ownership at MP 11.02 on Buyer's line to Monroe, WI, between MP 98.27 and MP 46.75 on Buyer's line to Milton, Jct., WI, and between MP 9.96 and MP 46.08 consisting generally of the north leg of the wye track at Janesville, WI (collectively "the Leased Properties").

In addition, WSOR gives notice that on or before June 30, 2004, it shall purchase certain additional rail assets of the IC&E as follows:

the connecting trackage between MP 45.23 and the connection with the Leased Premises at MP 46.08 ("the Connecting Line").

The total mileage to be purchased is approximately 7.33 miles.

WSOR currently projects that it will continue to use the services of its existing employees who presently operate over the subject line. These personnel and their rates of pay are listed below:

1. Engineer(s) at an annual salary of approximately \$34,-51,000.

2. Trainmen at an annual salary of approximately \$32-48,000.
3. Maintenance of way personnel at an annual salary of approximately \$23-37,000.

WSOR will continue to offer:

- Dental, medical, and disability insurance
- Expense reimbursement
- Holidays
- Earned time off in lieu of vacation, sick, and certain other types of leave
- Family and medical leave
- Jury duty
- Military leave
- 401(k) plan

WSOR will continue to select any new employees on the basis of:

- Current certifications held
- Railroad job knowledge
- Skills and ability
- Previous work experience

Any WSOR employee interested in further information concerning positions available with WSOR should contact Manager of Human Resources Director Suzanne Immel at 414-438-8820 ext. 222.

CERTIFICATION OF POSTING

This will confirm that the Notice of Intent to Purchase certain rail lines owned by the Iowa, Chicago & Eastern Railroad Corporation was posted on June 7, 2004, at Janesville, WI, to ensure that all affected employees of the Iowa, Chicago & Eastern Railroad Corporation and WSOR are properly notified of a proposed rail line transaction as provided under 49 CFR 1121.4(h).

Signed: Timothy J. Karp

Title: Vice President - Finance