

application to impose and use the revenue from a PFC at Port Columbus International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before June 24, 1996.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry Hedrick, Executive Director of the Columbus Municipal Airport Authority at the following address: Port Columbus International Airport, 4600 International Gateway, Columbus, Ohio 43219.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Columbus Municipal Airport Authority under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary W. Jagiello, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313) 487-7296. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Port Columbus International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 14, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by Columbus Municipal Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 21, 1996.

The following is a brief overview of the application.

**PFC Application No.:** 96-05-C-00-CMH

**Level of the PFC:** \$3.00

**Actual charge effective date:** October 1, 1992

**Proposed charge expiration date:**

September 1, 1997

**Total estimated PFC revenue:**

\$9,437,955

**Brief description of proposed project(s):**

Runway 10L-28R Improvements  
*Class or classes of air carriers which the public agency has requested not be required to collect PFCs:* Air Taxi/Commercial Operators

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER**

**INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application at the Columbus Municipal Airport Authority.

Issued in Des Plaines, Illinois on May 17, 1996.

Benito De Leon,

*Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.*

[FR Doc. 96-13160 Filed 5-23-96; 8:45 am]

**BILLING CODE 4910-13-M**

## **Surface Transportation Board <sup>1</sup>**

**[STB Finance Docket No. 32901]**

### **H. Peter Claussen and Linda C. Claussen—Continuance in Control Exemption—Lexington & Ohio Railroad Co., Inc.**

H. Peter Claussen and Linda C. Claussen, noncarrier individuals (Applicants), have filed a notice of exemption to continue in control of Lexington & Ohio Railroad Co., Inc. (L&O), upon L&O's becoming a Class III rail carrier.

The transaction was expected to be consummated on or after May 10, 1996.

This proceeding is related to *Lexington & Ohio Railroad Co., Inc.—Acquisition and Operation Exemption—Norfolk Southern Railway Company*, STB Finance Docket No. 32900, wherein L&O seeks to acquire and operate certain rail lines from the Norfolk Southern Railway Company.

Applicants own and control eight existing Class III common carriers by rail: Live Oak, Perry & Georgia Railroad Company, Inc., operating in Florida and Georgia; Georgia & Florida Railroad, Co., Inc., operating in Florida and Georgia; Albany Bridge Company, operating in Georgia; Gulf & Ohio Railways, Inc.,

operating under the trade name of Mississippi Delta Railroad in Mississippi and under the trade name of Atlantic & Gulf Railroad in Georgia; Wiregrass Central Railroad Company, Inc., operating in Alabama; H&S Railroad, Inc., operating in Alabama; Piedmont & Atlantic Railroad, Inc., operating in North Carolina; and Rocky Mount & Western Railroad Co., Inc., operating in North Carolina.

Applicants state that: (i) The railroads will not connect with each other or any railroad in their corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the nine railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32901, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Paul C. Oakley, Weiner, Brodsky, Sidman & Kider, P.C., Suite 800, 1350 New York Avenue, N.W., Washington, DC 20005-4797.

Decided: May 17, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96-13129 Filed 5-23-96; 8:45 am]

**BILLING CODE 4915-00-P**

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323-24.

**Surface Transportation Board<sup>1</sup>****[STB Finance Docket No. 32905]****CSX Transportation, Inc.—  
Acquisition—Certain Rail Lines of  
Indiana Hi-Rail Corporation in  
Henderson, KY, and Evansville, IN****AGENCY:** Surface Transportation Board, DOT.**ACTION:** Notice of acceptance of application.

**SUMMARY:** The Board accepts for consideration the application filed April 25, 1996, by CSX Transportation, Inc. (CSXT), and Indiana Hi-Rail Corporation (IHRC) (collectively referred to as applicants) for CSXT to acquire from IHRC approximately 8.2 miles of rail line located in Indiana and Kentucky.<sup>2</sup> In accordance with 49 CFR 1180.4(b)(2)(iv), the Board finds that this is a minor transaction as described in 49 CFR 1180.2(c).

**DATES:** This decision is effective on May 24, 1996. Written comments, including comments from the Secretary of Transportation and the Attorney General of the United States, must be filed with the Board no later than June 24, 1996. The Board will issue a service list shortly thereafter. Copies of the comments must be served on all parties of record within 10 days after the Board issues the service list and must be confirmed by certificate of service filed with the Board indicating that all designated individuals and organizations on the service list have been properly served. Applicants' reply is due July 15, 1996.

**ADDRESSES:** Send an original and 10 copies of pleadings referring to STB Finance Docket No. 32905 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201

Constitution Avenue, N.W., Washington, DC 20423. In addition, send one copy of all pleadings to applicants' representatives: (1) Paul R. Hitchcock, 500 Water St.-J150, Jacksonville, FL 32202; and (2) Charles H. White, Galland, Kharasch, Morse & Garfinkle, P.C., Canal Square, 1054 Thirty-First Street, N.W., Washington, DC 20007-4492.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 927-7513. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** Applicants seek approval under 49 U.S.C. 11323-25 for CSXT to acquire certain rail lines of IHRC and, as part of the transaction, for IHRC to discontinue certain trackage rights over portions of CSXT track, all in Indiana and Kentucky.

Applicants state that this is a minor transaction as defined in 49 CFR part 1180, the regulations that implemented former 49 U.S.C. 11343-45. The ICCTA revised those statutory provisions and reenacted them as 49 U.S.C. 11323-25. Because the proposed transaction does not involve the merger or control of two Class I railroads, it is subject to the standards of 49 U.S.C. 11324(d). Also, as discussed below, because we have determined that the transaction is not of regional or national significance, the procedural schedule set out at 49 U.S.C. 11325(d) applies. Under section 204(a) of the ICCTA, all ICC rules in effect on the date of enactment of the ICCTA "shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board \* \* \* or operation of law." While the standards and procedures of former sections 11343-45 and current sections 11323-25 are substantially similar, insofar as minor transactions are concerned, the procedures of current section 11325(d) differ slightly from those at 49 CFR 1180.4 and shall govern. Otherwise, the use of the regulations at 49 CFR part 1180 for this proceeding appears proper.

CSXT, a Class I rail carrier wholly owned by CSX Corporation (a noncarrier), operates approximately 19,000 miles of track in 19 states, the District of Columbia, and Ontario, Canada. IHRC, a Class III rail carrier, operates eight rail lines, comprising approximately 283 miles of track, in Indiana, Illinois, Ohio, and Kentucky. CSXT proposes to purchase from IHRC approximately 7.8 miles of branch line and 0.4 miles of siding track, for a total of 8.2 miles, as follows: (1) A 5.8-mile line segment, located in Henderson, KY, extending from CSXT milepost H-

312.63 to the end of IHRC's track, the site of the Henderson County Port Authority; (2) a 1-mile line segment, located in Henderson, extending from CSXT milepost H-312.90 to the end of IHRC's track;<sup>3</sup> and (3) a 1-mile line segment, located in Evansville, IN, extending from CSXT milepost OZA-285.22 to the end of IHRC's track.<sup>4</sup> IHRC will also transfer its one-half ownership interest in two unused siding tracks, No. 277 and No. 279, that are jointly owned with CSXT; they are located at CSXT milepost H-312.79, and each is approximately 0.2 mile in length.

Additionally, as part of this transaction, IHRC will discontinue its trackage rights between Evansville and Henderson over CSXT's main service lane connecting Chicago, IL, and Nashville, TN.<sup>5</sup> Also, IHRC's trackage rights over a portion of CSXT track in Evansville (the "Evansville Belt" and the "running track") will be discontinued.

IHRC is in bankruptcy. The U.S. Bankruptcy Court, Southern District of Indiana, Indianapolis Division, has approved the transaction subject only to our approval. In an order dated March 5, 1996, in Case No. IP94-08502-RLB-11, the court authorized the sale and approved the closing of the transaction in escrow, with Board approval as the basic condition to take the transaction out of escrow.

Applicants maintain that the proposed transaction will not result in any substantial lessening of competition in any affected market or region. Only 8.2 miles, or 2% of IHRC's track, are involved, and, for the most part, the track is used for switching operations. Instead of lessening competition, applicants argue that the proposed transaction will serve the public interest by reducing their costs, improving the quality and competitiveness of rail service, and strengthening IHRC's ability to provide rail service on the remainder of its system.

The line segments connect with CSXT's system and assertedly fit well into its network. On the other hand, IHRC can only reach the three Henderson line segments via the trackage rights over CSXT's main line. Thus, traffic originating or terminating on these line segments must be handled in interchange service, which is

<sup>3</sup>The application identifies three rail-served industries on this line segment, CPS, J-Ron, and Bakery Feeds.

<sup>4</sup>The operating plan and map accompanying the application identify one rail-served industry (Modern Maid) on the Evansville line segment.

<sup>5</sup>The trackage rights include a single-track bridge over the Ohio River, seemingly a point of congestion.

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to a railroad acquisition that is subject to Board jurisdiction pursuant to 49 U.S.C. 11323-25.

<sup>2</sup> CSXT seeks to acquire from IHRC and operate 8.2 miles of track, and the application is styled accordingly. However, we note that CSXT does not require separate authority to operate. When a rail carrier sought to purchase a rail line from another rail carrier in a transaction governed by former 49 U.S.C. 11343 of the Interstate Commerce Act, the ICC would approve or exempt the operation of the line, if requested, but the authority or exemption to operate was not necessary. The purchaser's status as a carrier, coupled with the acquisition of the line, constituted sufficient authority to conduct operations. Similarly, a purchase by a carrier of a line under current 49 U.S.C. 11323-25 provides the purchaser with the authority to conduct rail service over the line.

inherently more costly and results in delay to shippers.

Moreover, the trackage rights operations place schedules at risk and otherwise threaten significant disruptions with a line characterized by applicants as "the backbone of CSXT's Chicago to Nashville Service Lane \* \* \* one of CSXT's heaviest trafficked lines on its system." Operations over this line reportedly are conducted using a highly successful corridor concept that decentralizes many aspects of operational management and instead emphasizes scheduled operations based on a preexisting plan that accounts for essential operational inputs by time and location.

Overall, applicants maintain the proposed transaction will result in rail service becoming even more competitive with motor carriage in the affected area. By replacing the bankrupt IHRC with CSXT, applicants contend that the shippers served by these line segments will receive improved rail service. Also, they state that service reliability will improve for hundreds of other customers shipping via CSXT's Chicago-Nashville main line. The uncertainty engendered by IHRC's trackage rights will be eliminated, giving CSXT the greater measure of control it seeks over operations in this service-critical corridor.

Additionally, applicants state that the proposed transaction will help IHRC to restructure for its future survival, and the shipping public will benefit as a result. By enabling IHRC to retire a substantial amount of debt, they contend that the transaction will reduce IHRC's monthly fixed costs and strengthen both its financial situation and its ability to serve customers on its remaining lines.

Applicants state that the proposed transaction will have only a slight effect on employees. Additional work, switching cars to industries located on the line segments, will be created for CSXT employees, and only two IHRC train crewmen, the ones who operate the line segments for IHRC, will be affected. The IHRC employees have system-wide seniority, and the Trustee anticipates that they will be reassigned to other work on IHRC's system. An implementing agreement has already been negotiated with their representatives, and applicants anticipate that employees will be protected under the conditions set forth in *New York Dock Ry.—Control—Brooklyn East. Dist.*, 360 I.C.C. 60 (1979), as clarified in *Wilmington Terminal RR, Inc. Co.—Pur. & Lease—CSX Transp., Inc.*, 6 I.C.C.2d 799 (1990), modified, 7 I.C.C.2d 60 (1990), *aff'd sub*

*nom. Rail Labor Executives' Ass'n v. ICC*, 930 F.2d 511 (6th Cir. 1991).

Under 49 CFR part 1180, we must determine whether a proposed transaction is major, significant, or minor. The proposed transaction, which involves the purchase by a single Class I carrier of only short line segments belonging to a bankrupt Class III carrier, has no regional or national significance and will clearly not have any anticompetitive effects. Accordingly, we find the proposal to be a minor transaction under 49 CFR 1180.2(c), as now defined under 49 U.S.C. 11325(a). Because the application substantially complies with the applicable regulations governing minor transactions, we are accepting it for consideration.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Board in Washington, DC. In addition, they may be obtained upon request from applicants' above named representatives.

Interested persons, including government entities, may participate in this proceeding by submitting written comments. Any person who files timely comments will be considered a party of record if the person so requests. No petition for leave to intervene need be filed.

Consistent with 49 CFR 1180.4(d)(1)(iii), written comments must contain:

- (a) the docket number and title of the proceeding;
- (b) the name, address, and telephone number of the commenting party and its representative upon whom service shall be made;
- (c) the commenting party's position, i.e., whether it supports or opposes the proposed transaction;
- (d) a statement whether the commenting party intends to participate formally in the proceeding, or merely comment on the proposal;
- (e) if desired, a request for an oral hearing with reasons supporting this request; the request must indicate the disputed material facts that can be resolved only at a hearing; and
- (f) a list of all information sought to be discovered from the applicant carriers.

Because we have determined that this proposal is a minor transaction, no responsive applications will be permitted. The time limits for processing this transaction are set forth at 49 U.S.C. 11325(d).

Discovery may begin immediately. We admonish the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. This application is accepted for consideration under 49 U.S.C. 11323–25 as a minor transaction under 49 CFR 1180.2(c).

2. The parties shall comply with all provisions stated above.

3. This decision is effective on May 24, 1996.

Decided: May 20, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

*Secretary.*

[FR Doc. 96–13130 Filed 5–23–96; 8:45 am]

BILLING CODE 4915–00–P

## Surface Transportation Board<sup>1</sup>

[STB Finance Docket No. 32900]

### Lexington & Ohio Railroad Co., Inc.— Acquisition and Operation Exemption—Norfolk Southern Railway Company

Lexington & Ohio Railroad Co., Inc. (L&O), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 14.9 miles of rail line owned by Norfolk Southern Railway Company from milepost 23.9LL in Lexington, KY, to milepost 9.0LL in Versailles, KY, in Fayette and Woodford Counties, KY.

The transaction was expected to be consummated on or after May 10, 1996.

This proceeding is related to *H. Peter Claussen and Linda C. Claussen—Continuance in Control Exemption—Lexington & Ohio Railroad Co., Inc.*, STB Finance Docket No. 32901, wherein H. Peter Claussen and Linda C. Claussen have concurrently filed a verified notice to continue to control L&O, upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.