

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34010]

Pioneer Railcorp—Continuance in Control Exemption—Gettysburg & Northern Railroad Co.

Pioneer Railcorp (Pioneer), a noncarrier holding company, has filed a verified notice of exemption to continue in control of Gettysburg & Northern Railroad Co. (GNR), upon GNR's becoming a carrier.

The transaction is scheduled to be consummated on or after February 20, 2001.

This transaction is related to STB Finance Docket No. 34011, *Gettysburg & Northern Railroad Co.—Acquisition and Operation Exemption—Gettysburg Railway Company, Inc., Delaware Transportation Group, Inc., and Delaware Valley Railway Company, Inc.*, wherein GNR seeks to acquire and operate a line of railroad approximately 1.5 miles long in Gettysburg and Mount Holly Springs, PA.

At the time it filed the notice, Pioneer owned and controlled sixteen existing Class III shortline rail carriers: West Michigan Railroad Co., which operates in Michigan; Fort Smith Railroad Co., which operates in Arkansas; Alabama Railroad Co., which operates in Alabama; Mississippi Central Railroad Co., which operates in Mississippi and Tennessee; Alabama & Florida Railway Co., Inc., which operates in Alabama; Decatur Junction Railway Co., which operates in Illinois; Vandalia Railroad Company, which operates in Illinois; Keokuk Junction Railway Co. (KJRY),¹

which operates in Iowa and Illinois; Michigan Southern Railroad Company, which operates in Michigan and Indiana; Shawnee Terminal Railway Company, which operates in Illinois; Pioneer Industrial Railway Co., which operates in Illinois; Michigan Southern Railroad Company, Inc., which owns or leases track in Michigan and Indiana but does not currently conduct any rail operations in those States; The Garden City Western Railway, Inc., which operates in Kansas; Indiana Southwestern Railway Co., which operates in Indiana; Kendallville Terminal Railway Co., which operates in Indiana; and Elkhart & Western Railroad Co., which has authority to operate in Indiana but has not yet begun operations in that State.

Pioneer states that: (i) The railroads will not connect with each other or any railroad in their corporate family; (ii) the continuance-in-control is not part of a series of anticipated transactions that would connect the 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.

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 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 reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34010, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on William A. Mullins, Esq., Troutman Sanders LLP, 401 Ninth Street, NW., Suite 1000, Washington, DC 20004.

Board decisions and notices are available on our website at <http://www.stb.dot.gov>.

Decided: February 20, 2001.

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

Vernon A. Williams,
Secretary.

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¹ Pioneer states that KJRY also owns Keokuk Union Depot Company, a nonoperating common carrier.