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SERVICE DATE – JUNE 6, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36198]

New Orleans Public Belt Railroad Corporation—Trackage Rights Exemption—Illinois
Central Railroad Company

New Orleans Public Belt Railroad Corporation (NOPB Corp.), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for its extension of temporary overhead trackage rights on rail lines of Illinois Central Railroad Company (IC) in New Orleans, La., from IC milepost 906.4 at East Bridge Junction in Shrewsbury to IC milepost 900.8 at Orleans Junction in New Orleans and from IC milepost 444.2 at Orleans Junction to IC milepost 443.5 at Frellsen Junction in New Orleans, a total distance of approximately 6.3 miles (the Line).

NOPB Corp. states that it is a switching and terminal railroad and a wholly owned subsidiary of the Board of Commissioners of the Port of New Orleans that provides terminal, interline, and intermediate switching services to local shippers and six Class I railroads in the New Orleans area. NOPB Corp. further states that it began operations on February 1, 2018, upon acquisition of all the railroad operating assets of the Public Belt Railroad Commission of the City of New Orleans (Public Belt). See New Orleans Pub. Belt R.R.—Acquis. & Operation Exemption—Pub. Belt R.R. Comm’n of New Orleans (NOPB Corp. Acquisition), FD 36149 (STB served Dec. 27, 2017).

According to NOPB Corp., pursuant to a September 16, 2016 temporary trackage rights agreement and subsequent amendment dated December 28, 2016, between Public

Belt and IC, Public Belt previously obtained temporary overhead trackage rights on the Line to interchange traffic with Kansas City Southern Railway Company (KCS) on KCS trackage in New Orleans on a trial basis. See New Orleans Pub. Belt R.R.—Temp. Trackage Rights Exemption—Ill. Cent. R.R., FD 36067 (STB served Oct. 14, 2016); New Orleans Pub. Belt R.R.—Temp. Trackage Rights Exemption—Ill. Cent. R.R., FD 36067 (STB served Jan. 30, 2017). NOPB Corp. states that, as initially extended, the temporary trackage rights were scheduled to expire on January 31, 2018. NOPB Corp. further states that it was assigned Public Belt’s interest in the temporary trackage rights arrangement as part of the transaction authorized in the NOPB Corp. Acquisition, Docket No. FD 36149.

According to NOPB Corp., pursuant to a second amendment to the temporary trackage rights agreement, dated January 31, 2018, the parties have agreed to a further extension of the temporary overhead trackage rights until January 31, 2020.¹ NOPB Corp. states that the purpose of the transaction is to allow it to interchange traffic with KCS on KCS trackage, which requires NOPB Corp. to operate over IC trackage for approximately 6.3 miles.

¹ NOPB Corp. states that, because the duration of the extended trackage rights is greater than one year, it is not filing under the Board’s class exemption for temporary trackage rights under 49 C.F.R. § 1180.2(d)(8). Instead, NOPB Corp. has filed under the trackage rights class exemption at § 1180.2(d)(7). Concurrently, NOPB Corp. has filed a petition for partial revocation of this exemption to permit these proposed trackage rights to expire on January 31, 2020, as provided in the agreement. See New Orleans Pub. Belt R.R.—Trackage Rights Exemption—Ill. Cent. R.R., Docket No. FD 36198 (Sub-No. 1). The Board will address that petition in a separate decision.

NOPB Corp. states that the traffic subject to the trackage rights does not involve an interchange commitment that limits interchange with a third-party connecting carrier. (See NOPB Corp. Letter 1.)

Unless stayed, the exemption will be effective on June 20, 2018 (30 days after the verified notice was filed).²

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

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 effectiveness of the exemption. Petitions for stay must be filed no later than June 13, 2018 (at least seven days before the exemption becomes effective).

² NOPB Corp. did not request retroactive authorization, and the exemption invoked by NOPB Corp. does not provide for retroactive effectiveness. See Wendelin—Continuance in Control—RMW Ventures, LLC, FD 35801, slip op. at 2 n.1 (STB served Mar. 21, 2014) (noting that the authority for a continuance in control exemption under 49 C.F.R. § 1180.2(d)(2) would be effective prospectively only); see also Kan. City S. Lines, Inc.—Corp. Family Transaction Exemption—KCS Transp. Co., FD 33510, slip op. at 1 n.1 (STB served Dec. 10, 1997) (“no class exemption provides for retroactive application”). Accordingly, the authority will be effective prospectively only.

An original and 10 copies of all pleadings, referring to Docket No. FD 36198, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

According to NOPB Corp., this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

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Decided: June 1, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.