

Surface Transportation Board Conditionally Approves "Illinois Central's" Line Construction in Louisiana

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has conditionally granted the Illinois Central Railroad Company (IC) an exemption from regulation to construct and operate a 3.2-mile line of railroad in East Baton Rouge Parish, Louisiana. The line would connect IC's Maryland Industrial Lead with the Baton Rouge Polyolefins (BRPO) plant of ExxonMobil Chemical Company (ExxonMobil). The Board granted the exemption over the opposition of The Kansas City Southern Railway Company (KCS), which currently operates a line into the BRPO plant and gives IC access to the plant via reciprocal switching, under which IC has moved very little traffic.

In its decision, the Board determined that KCS's arguments did not raise issues requiring the Board to deny the exemption or to conduct a full-scale licensing proceeding. In particular, the Board noted that the law does not require a showing either that ExxonMobil is a "captive" shipper (dependent on a particular railroad as defined under the law) or that it needs additional service. Rather, the agency cited longstanding rulings that the national rail transportation policy favors the construction of new rail lines, and found that the proposed line would enhance ExxonMobil's transportation and routing and rate options.

Noting that the construction proposal is subject to an ongoing environmental review process, the Board made its grant conditional, pending the outcome of that review, as it has done in other line construction cases. The agency stated that it would issue a further decision upon completion of the environmental review process.

In a related proceeding, the Board issued a decision denying KCS's motion to dismiss IC's petition for a Board order allowing it to cross KCS's tracks as part of the construction project. Under the law, the Board may authorize a railroad to cross over a line of another railroad if: (1) construction of the line does not unreasonably interfere with the operation of the crossed line; (2) the operation of the line does not materially interfere with the operation of the crossed line; and (3) the owner of the crossing line compensates the owner of the crossed line. In addition, if the parties disagree on the operating terms or the amount of compensation regarding a line crossing, either may submit the dispute to the Board for a determination.

IC petitioned the Board to institute a proceeding, but KCS argued that the petition was premature. The Board denied KCS's motion to dismiss because the agency was granting the construction exemption request and it did not appear that IC and KCS were negotiating to resolve the matter. The Board set due dates for the filing of additional pleadings in the crossing case.

The Board issued its decision today in the "construction" case, *Illinois Central Railroad Company--Construction and Operation Exemption--In East Baton Rouge Parish, LA*, STB Finance Docket No. 33877, and in the "crossing" case, *Illinois Central Railroad Company--Petition for Crossing Authority--In East Baton Rouge Parish, LA*, STB Finance Docket No. 33877 (Sub-No. 1). Printed copies of both decisions are available for a fee by contacting **D~2-D~ Legal, Room 405, 1925 K Street, NW, Washington, DC 20006, telephone (202) 293-7776**, or via [http://Da_To_Da@Hotmail.com](mailto:Da_To_Da@Hotmail.com). The decisions also are available for viewing and downloading via the Board's website at <http://www.stb.dot.gov>

