

Surface Transportation Board, DOT

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IV; however, the State through its operational agreement or the operator of the line may determine certain preconditions, such as payment of a subsidy, which must be met by shippers to obtain service over the line. The operator must notify the shippers on the line of any preconditions. The modified certificate will authorize service to shippers who meet these preconditions and the operator will be required to provide complete common carrier service under this certificate only to those shippers. (See 363 ICC 132.)

§1150.23 Modified certificate of public convenience and necessity.

(a) The operator must file a notice with the Board for a modified certificate of public convenience and necessity. Operations may commence immediately upon the filing; however, the Board will review the information filed, and if complete, will issue a modified certificate notice.

(b) A notice for a modified certificate of public convenience and necessity shall include the following information:

(1) The name and address of the operator and, unless the operator is an existing rail carrier:

(i) Its articles of incorporation or, if it is unincorporated, the facts and organizational documents relating to its formation;

(ii) The names and addresses of all of its officers and directors and a statement indicating any present affiliation each may have with a rail carrier; and

(iii) Sufficient information to establish the financial responsibility of the operator.

(2) Information about the prior abandonment, including docket number, status and date of the first decision approving the abandonment.

(3) The exact dates of the period of operation which have been agreed upon by the operator and the State which owns the line (if there is any agreement, it should be provided);

(4) A description of the service to be performed including, where applicable, a description of:

(i) The line over which service is to be performed;

(ii) All interline connections including the names of the connecting railroads;

(iii) The nature and extent of all liability insurance coverage, including binder or policy number and name of insurer; and

(iv) Any preconditions which shippers must meet to receive service.

(5) The name and address of any subsidizers, and

(6) Sufficient information to establish the financial responsibility of any subsidizers (if the subsidizer is a State, the information should show that it has authority to enter into the agreement for subsidized operations).

(c) The service offered and the applicable rates, charges, and conditions must be described in tariffs published by the operator to the Board's rules.

§1150.24 Termination of service.

The duration of the service may be determined in the contract between the State and the operator. An operator may not terminate service over a line unless it first provides 60 days' notice of its intent to terminate the service. The notice of intent must be:

(a) Filed with the State and the Board, and

(b) Mailed to all persons that have used the line within the 6 months preceding the date of the notice.

Subpart D—Exempt Transactions Under 49 U.S.C. 10901

SOURCE: 51 FR 2504, Jan. 17, 1986, unless otherwise noted.

§1150.31 Scope of exemption.

(a) Except as indicated below, this exemption applies to all acquisitions and operations under section 10901 (See 1150.1, *supra*). This exemption also includes:

(1) Acquisition by a noncarrier of rail property that would be operated by a third party;

(2) Operation by a new carrier of rail property acquired by a third party;

(3) A change in operators on the line; and

(4) Acquisition of incidental trackage rights. Incidental trackage rights include the grant of trackage rights by

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the seller, or the assignment of track-age rights to operate over the line of a third party that occur at the time of the exempt acquisition or operation. This exemption does not apply when a class I railroad abandons a line and another class I railroad then acquires the line in a proposal that would result in a major market extension as defined at §1180.3(c).

(b) Other exemptions that may be relevant to a proposal under this subpart are the exemption for control at §1180.2(d)(1) and (2), and the from securities regulation at 49 CFR part 1175.

§1150.32 Procedures and relevant dates—transactions that involve creation of Class III carriers.

(a) To qualify for this exemption, applicant must file a verified notice providing details about the transaction, and a brief caption summary, conforming to the format in §1150.34, for publication in the FEDERAL REGISTER.

(b) The exemption will be effective 7 days after the notice is filed. The Board, through the Director of the Office of Proceedings, will publish a notice in the FEDERAL REGISTER within 30 days of the filing. A change in operators would follow the provisions at §1150.34, and notice must be given to shippers.

(c) If the notice contains false or misleading information, the exemption is void *ab initio*. A petition to revoke under 49 U.S.C. 10505(d) does not automatically stay the exemption.

(d) Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 is achieved.

(e) If the projected annual revenue of the carrier to be created by a transaction under this exemption exceeds \$5 million, applicant must, at least 60 days before the exemption becomes effective, post a notice of intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types

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and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.

[51 FR 2504, Jan. 17, 1986, as amended at 53 FR 4626, Feb. 17, 1988; 53 FR 5982, Feb. 29, 1988; 62 FR 47584, Sept. 10, 1997]

§1150.33 Information to be contained in notice—transactions that involve creation of Class III carriers.

(a) The full name and address of the applicant;

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

(c) A statement that an agreement has been reached or details about when an agreement will be reached;

(d) The operator of the property;

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property,

(2) The proposed time schedule for consummation of the transaction,

(3) The mile-posts of the subject property, including any branch lines, and

(4) The total route miles being acquired;

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States; and

(g) A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.

[51 FR 2504, Jan. 17, 1986, as amended at 51 FR 25207, July 11, 1986; 53 FR 4626, Feb. 17, 1988; 53 FR 5982, Feb. 29, 1988; 56 FR 36111, July 31, 1991]

§1150.34 Caption summary—transactions that involve creation of Class III carriers.

The caption summary must be in the following form. The information symbolized by numbers is identified in the key below: