

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35223

ILLINOIS CENTRAL RAILROAD COMPANY—TRACKAGE RIGHTS EXEMPTION—  
WISCONSIN CENTRAL LTD.

MOTION FOR PROTECTIVE ORDER

Decided: March 20, 2009

By motion filed on February 26, 2009, Wisconsin Central Ltd. (WC) seeks a protective order under 49 CFR 1104.14(b) in connection with its concurrently filed notice of exemption filed under 49 CFR 1180.2(d)(7) for WC's acquisition of non-exclusive overhead and interchange trackage rights from Illinois Central Railroad Company (IC) over IC's line of railroad between milepost 31.6 at University Park, IL (Stuenkel Road), and milepost 20.1 at Harvey, IL (South Junction), a distance of approximately 11.5 miles (line). WC seeks a protective order to protect material containing commercially sensitive and confidential information.<sup>1</sup> WC filed a redacted version of its trackage rights agreement with IC, and filed, under seal, a confidential version.

Good cause exists to grant the motion for protective order. Issuance of the protective order ensures that the parties' confidential information will be used only in connection with this proceeding, as defined in the Appendix to this decision, and not for any other purposes.

The motion conforms with the Board's rules at 49 CFR 1104.14 governing protective orders to maintain the confidentiality of materials submitted to the Board. Accordingly, the motion for protective order will be granted, and the properly designated filings in this proceeding shall be subject to the Protective Order and Undertakings as modified in the Appendix to this decision.

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

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<sup>1</sup> A proposed protective order and undertakings were included with the motion.

It is ordered:

1. The motion for a protective order is granted, and the Protective Order and Undertaking in the Appendix to this decision are adopted.
2. The material containing commercially sensitive and confidential information submitted in STB Finance Docket No. 35223 will be kept under seal by the Board and not placed in the public docket or otherwise disclosed to the public, unless the attached Undertaking is executed and the terms of the Protective Order are followed, or unless otherwise ordered by the Board.
3. This decision is effective on the date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan  
Acting Secretary

**APPENDIX**

**PROTECTIVE ORDER**

1. For the purposes of this Protective Order, “Confidential Information” means the Agreement between WC (User) and IC (Owner) filed in STB Finance Docket No. 35223.
2. Confidential Information shall be provided to any party only pursuant to this Protective Order and only upon execution and delivery to User of the attached Undertaking. Confidential Information shall be used solely for the purpose of this and any related Board proceedings, or any judicial review proceedings arising therefrom, and not for any other business, commercial, or other competitive purpose.
3. Confidential Information shall not be disclosed in any way to any person without written consent of User or an order of the Board, solely for use in connection with these and related Board proceedings, or any judicial review proceeding arising therefrom, provided that such person has been given and has read a copy of this Protective Order and agrees to be bound by its terms by executing the attached Undertaking prior to receiving access to this information.
4. Any documents containing Confidential Information must be destroyed, and notice of such destruction must be served on User at the completion of this and any related Board proceedings, or any judicial review proceeding arising therefrom, whichever comes first.
5. If the Board retains the Confidential Information, it shall, in order to keep it confidential, treat the information in accordance with the procedure set forth at 49 CFR 1104.14.
6. If any party intends to use Confidential Information at hearings in the subject STB docket or in any related Board proceedings, or in any judicial review proceedings arising therefrom, the party shall submit any documents setting forth or revealing such Confidential Information to the Board, or the reviewing court as appropriate, under seal, and shall accompany such submission with a written request to the Board or the court to (i) restrict attendance at the hearing during discussion of such Confidential Information, and (ii) restrict access to the portion of the record or briefs reflecting discussion of such Confidential Information in accordance with the Protective Order.
7. All parties must comply with all provisions stated in this Protective Order unless good cause, as determined by the Board, is shown by any party to warrant suspension of any of the provisions herein.

**Exhibit A**

**UNDERTAKING—CONFIDENTIAL MATERIAL**

I, \_\_\_\_\_, have read the Protective Order governing the filing of Confidential Information by User in STB Finance Docket No. 35223, understand the same, and agree to be bound by its terms. I agree not to use or to permit the use of any data or information obtained under this Undertaking, or to use or to permit the use of any techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and preservation of evidence and argument in STB Finance Docket No. 35223 or any judicial review proceedings taken or filed in connection therewith. I further agree not to disclose any data or information obtained under the Protective Order to any persons who are not also bound by the terms of the order and have executed an Undertakings in the form hereof.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking, and that User shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking, but shall be in addition to all remedies available at law or equity.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Position: \_\_\_\_\_

Affiliation: \_\_\_\_\_