

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration**

[FRA Docket 2001–8622]

**Wheeling & Lake Erie Railway Company Order****Background**

Pursuant to Part 235 of title 49 Code of Federal Regulations, the Wheeling & Lake Erie Railway Company (WLE) filed an application to discontinue and remove the traffic control system on its single main track and sidings between Spencer, Ohio, and Bellevue, Ohio. After hearing, and for the reasons discussed in its July 25, 2003 letter to WLE (letter), the Railroad Safety Board determined that it was appropriate to approve WLE's application, provided execution of the railroad's obligations under conditions placed on the approval can be ensured. Since certain of these obligations do not involve subject matters specifically regulated by FRA, FRA has made consent to entry of this order a further condition on approval of the discontinuance. WLE has consented to entry of the order.

**Authority**

The Federal Railroad Safety Act of 1970, as codified, gives FRA extensive authority with which to enforce Federal railroad safety laws and regulations. Authority to enforce Federal railroad safety laws has been delegated to the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103.

**Order**

Effective upon notification to the WLE that the conditions precedent to removal of the traffic control system have been fulfilled, the WLE shall be subject to the further continuing requirements:

1. WLE shall maintain in place and shall enforce bulletin orders and special instructions required under the conditions to the approval of the application.

2. All track currently signalized shall be subject to an annual internal rail flaw inspection in the same manner required for Class 4 track under 49 CFR 213.237.

3. Dragging equipment detectors shall be installed per the railroad's proposal in this docket at or near the following locations: West of Hartland West at Milepost 72; Townline Road at Milepost 69.5; Old State Road at Milepost 66.6; Benedict Avenue at Milepost 65.3; North West Street at Milepost 64.1; Halfway Road, east of Monroeville,

Ohio, at Milepost 62.5; and Williams Road, west of Monroeville, Ohio, at Milepost 58.7. The existing hot box and dragging detector at Clarksfield at Milepost 77.7 shall be maintained. In addition, the hazard detector at Milepost 62.5 shall be required to be equipped to detect hot bearings. These detectors shall be maintained in good working order at all times and shall be promptly restored (without undue delay) in the case of unexpected failure.

4. Remote health monitoring shall be provided for the highway-rail crossing signals in Norwalk and Monroeville, Ohio, as per the railroad's proposal at the following locations: Townline Road at Milepost 69.5; Laylin Road at Milepost 68; Old State Road at Milepost 66.6; Conrwin and Pine Streets at Milepost 65.8; Woodlawn Avenue at Milepost 65.7; Benedict Avenue at Milepost 65.3; Newton and Jefferson Streets at Milepost 64.7; North Pleasant Street at Milepost 64.6; and North West Street at Milepost 64.1 in the Norwalk Area, also Main Street at Milepost 61.0; Ridge Street at Milepost 60.5; and Monroe Street at Milepost 60.2 in the Monroeville Area.

a. Implementation of this capability must provide effective immediate notification to the dispatcher of any false activation or activation failure detected.

b. If the dispatcher cannot immediately account for an alarm condition, the dispatcher shall instruct crews to reduce their speed to restricted speed within one-half mile of approaching the crossing and flag the crossing on both sides. Trains approaching a malfunctioning highway-rail crossing must proceed at restricted speed for one half mile in advance of the crossing and remain at restricted speed until the entire train is one-half mile past the highway-rail crossing.

These systems shall be maintained in working order thereafter and shall be repaired without undue delay in the case of unexpected failure.

5. Power operated switches that remain in this application area shall be maintained with a separate lock rod and separate point detector rod that will be attached to the switch and switch point separately.

6. Switches shall be upgraded to radio controlled operation per the railroad's proposal in this docket.

7. Derails currently installed at turnouts in the application area shall be maintained and utilized consistent with the WLE operating rules in effect as of the date of this letter unless the turnout is no longer needed and is removed.

Violation of this order is subject to civil penalty and other applicable

sanctions as provided in 49 U.S.C. 21301 *et seq.*

Issued in Washington, DC on October 10, 2003.

**Allan Rutter,**

*Federal Railroad Administrator.*

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**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board**

[STB Finance Docket No. 34411]

**New Orleans & Gulf Coast Railway Company, Inc.—Lease Exemption—Union Pacific Railroad Company**

New Orleans & Gulf Coast Railway Company, Inc. (NOGC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from Union Pacific Railroad Company (UP) and operate approximately 11.52 miles of rail line. The line consists of 7.02-miles of UP's main line located between milepost 0.98 at Goldsboro, LA, and milepost 8.00 near Westwego, LA, and the 4.5-mile spur line known as the Hooper Spur located between Harvey Yard, at Harvey, LA, and the end of the spur at Bayou Street. NOGC certifies that its projected revenues as a result of this transaction will not result in NOGC becoming a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed \$5 million.

NOGC indicates that it expects to consummate the transaction on or shortly after October 19, 2003.

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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34411, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, Suite 225, 1455 F St., NW., Washington, DC 20005.

Board decisions and notices are available on our website at [WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided: October 10, 2003.