

provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

§ 1017. Temporary operating approval

(a) Use of tracks and facilities by other rail carriers; terms of compensation; continuation of service

The Commission may authorize any rail carrier willing to do so voluntarily to use the tracks and facilities of a carrier which, on January 14, 1983, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11. The use of such tracks and facilities shall be under such terms of compensation as the carriers establish between themselves, or if the carriers are unable to agree, under such terms of compensation as the Commission finds to be reasonable. The Commission shall have authority to authorize continued rail service under this section over the lines of any such carrier which has been ordered by the court having jurisdiction over such a carrier to liquidate its properties until the disposition of the properties of the estate of such carrier.

(b) Use of employees

In carrying out the provisions of this section, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.

(Pub. L. 96-254, title I, § 122, May 30, 1980, 94 Stat. 409; Pub. L. 97-130, § 5(a), Dec. 29, 1981, 95 Stat. 1690; Pub. L. 97-468, title II, § 214, Jan. 14, 1983, 96 Stat. 2545.)

REFERENCES IN TEXT

Section 77 of the Bankruptcy Act, referred to in subsec. (a), was classified to section 205 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§1161 et seq.) of chapter 11 of Title 11.

AMENDMENTS

1983—Subsec. (a). Pub. L. 97-468, § 214(a), substituted “a carrier which, on January 14, 1983, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11” for “the Rock Island Railroad or the Milwaukee Railroad”, and in last sentence substituted “any such carrier which has been ordered by the court having jurisdiction over such a carrier to liquidate its properties until the disposition of the properties of the estate of such carrier” for “the Rock Island Railroad until the disposition of the properties of the estate of the Rock Island Railroad”.

Subsec. (c). Pub. L. 97-468, § 214(b), struck out subsec. (c) which defined “Milwaukee Railroad”.

1981—Subsec. (a). Pub. L. 97-130 gave the Commission authority to authorize continued rail service under this section over the lines of the Rock Island Railroad until

the disposition of the properties of the estate of the Rock Island Railroad.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

TERMINATION OF APPLICABILITY OF AMENDMENT TO INTERSTATE COMMERCE SERVICE ORDER 1498 ON MAY 15, 1982

Section 5(b) of Pub. L. 97-130 provided that: “The applicability of the amendment made by subsection (a) [amending subsec. (a) of this section] to Interstate Commerce Commission Service Order 1498 shall expire at the end of May 15, 1982.”

§ 1018. Judicial review

(a) Appeals

Notwithstanding any other provision of law, any appeal from—

(1) any decision of the bankruptcy court with respect to the constitutionality of any provision of this chapter; and

(2) any decision of the court having jurisdiction over the reorganization of the Milwaukee Railroad with respect to the constitutionality of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.),

shall be taken to the United States Court of Appeals for the Seventh Circuit.

(b) Appellate proceedings

If appeals are taken from decisions described in subsection (a) of this section involving section 1005 or 1008¹ of this title or section 9 or 15 of the Milwaukee Railroad Restructuring Act [45 U.S.C. 908 or 915], the court of appeals shall determine such appeals in a consolidated proceeding, sitting en banc.

(c) Action in United States Court of Claims

Nothing in this chapter or in the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.) shall limit the right of any person to commence an action in the United States Court of Claims¹ under section 1491 of title 28 (commonly referred to as the Tucker Act).

(Pub. L. 96-254, title I, § 124, as added Pub. L. 96-448, title VII, § 701(a)(1), Oct. 14, 1980, 94 Stat. 1959; amended Pub. L. 98-620, title IV, § 402(49), Nov. 8, 1984, 98 Stat. 3361.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c), was in the original “this title”, meaning title I (§101 et seq.) of Pub. L. 96-254, May 30, 1980, 94 Stat. 399, as amended, known as the Rock Island Railroad Transition and Employee Assistance Act, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 1001 of this title and Tables.

¹ See References in Text note below.