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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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March 22, 2018  
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Public Record

FINANCE DOCKET NO. 36173

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ALABAMA & TENNESSEE RIVER RAILWAY, LLC  
--LEASE AND OPERATION EXEMPTION--  
HGS-ATN, LLC

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PETITION FOR WAIVER OF THE NOTICE  
REQUIREMENTS OF 49 C.F.R. § 1150.42(e)

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RAILWAY, LLC

Dated: March 22, 2018

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Alabama & Tennessee River Railway, LLC ("ATN"), a Class III rail carrier, hereby petitions the Surface Transportation Board ("Board") to waive the employee notice requirements of 49 C.F.R. § 1150.42(e).

ATN is filing with the Board a notice of exemption under 49 C.F.R. § 1150.41 to permit ATN to continue to lease and operate approximately 121 miles of rail lines located in Alabama. ATN leased the Lines from CSXT Transportation, Inc. ("CSX") in December 2004 and since that time has been the sole operator over the rail lines. See STB Finance Docket No. 34611, *Alabama & Tennessee River Railway, LLC – Lease and Operation Exemption - CSX Transportation, Inc.* (not printed) served December 17, 2004. HGS-ATN, LLC ("HGS-ATN") will shortly enter into an agreement to acquire the

rail lines from CSX. As part of that transaction, CSX will assign the lease of the rail lines by ATN to HGS-ATN.

In addition, ATN has performed all of the maintenance on the lines since 2004.

ATN's current revenues exceed \$5 million thus invoking the employee notice requirements of Section 1150.42(e). The purpose underlying the notice requirement, however, would not be thwarted by waiver in this proceeding. The purpose of the notice requirement is to ensure that rail labor unions and employees working on a line being transferred are given adequate notice of the transaction. *See Acq. Of R. Lines Under 49 U.S.C. 10901 & 10902 – Advance Notice*, 2 S.T.B. 592 (1997). In adopting the notice requirement, the Board specifically recognized that "situations may occur necessitating acquirer requests for waiver of the 60-day notice provision...." *Id.* at 601.

Here, labor notice would serve no useful purpose. No CSX employee will be affected by the lease because no CSX employee has performed operations or maintenance on the Lines since 2004. Neither will any ATN employee be affected by the lease because ATN will continue to provide the same service and perform the same maintenance as it has since 2004. Because the transaction will simply transfer the lease agreement from CSX to HGS-ATN, providing advance labor notice would be a futile act. *See STB Finance Docket No. 34660, Georgia Central Railway, L.P. – Acquisition and*

*Operation Exemption – Rail Line of CSX Transportation, Inc.* (not printed), served February 28, 2005; STB Finance Docket No. 34531, *The Indiana Rail Road Company – Acquisition Exemption – Line of Monon Rail Preservation Corporation* (not printed), served November 22, 2004; STB Finance Docket No. 34904, *Dakota, Missouri Valley and Western Railroad, Inc. – Lease and Operation Exemption – Soo Line Railroad Company* (not printed), served July 24, 2006.

In summary, ATN respectfully requests that the Board waive the requirements of 49 C.F.R. § 1150.42(e).

Respectfully submitted,

A handwritten signature in cursive script, reading "Karl Morell", is written over a horizontal line.

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Dated: March 22, 2018