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SERVICE DATE – MAY 23, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36173]

Alabama & Tennessee River Railway, LLC—Lease and Operation Exemption—HGS-ATN, LLC

Alabama & Tennessee River Railway (ATN), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease from HGS-ATN, LLC (HGS-ATN), and operate approximately 121 miles of rail lines located in Alabama (the Lines).¹ The Lines extend (1) from milepost SG 737.06, at or near Birmingham, to approximately milepost SG 673.43 at or near Wellington (Birmingham Subdivision); (2) from OAM 522.91 at or near Wellington to OAM 545.93 at or near Moragne (Gadsden Subdivision); (3) from milepost 114.81 at or near Moragne to AG 85.0, at or near Guntersville (Guntersville Subdivision); and (4) from milepost 0LE 447.89 at or near Moragne, to milepost 0LE 442.60 at or near Ivalee (Ivalee Spur), in Jefferson, St. Clair, Calhoun, Etowah, and Marshall Counties, Ala.

ATN states that in 2004 it entered into an agreement to lease the Lines from CSX Transportation, Inc. (CSXT). See Ala. & Tenn. River Ry.—Lease & Operation

¹ By decision served April 13, 2018, the Board held this and four related exemption proceedings in abeyance pending the filing of supplemental information in HGS Railway Holdings, Inc.—Continuance in Control Exemption—HGS-FCR, LLC & HGS-ATN, LLC, Docket No. FD 36180. On April 23, 2018, HGS Railway Holdings, Inc. filed a reply and revised notice of exemption in that docket. The Board is serving and publishing in the Federal Register today notices of the exemptions in all five dockets, thus removing them from abeyance.

Exemption—CSX Transp., Inc., FD 34611 (STB served Dec. 17, 2004). ATN further states that HGS-ATN will shortly enter into an agreement to acquire the Lines from CSXT.² As part of that transaction, CSXT will assign the ATN's lease of the Lines to HGS-ATN.

ATN certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier. ATN further certifies that the annual projected revenue will exceed \$5 million.³ In a letter filed on March 28, 2018, supplementing its notice of exemption, ATN certifies that its lease agreement with HGS-ATN contains no provisions that may limit future interchange with a third-party connecting carrier.

ATN states that it expects to consummate this transaction on or shortly after the effective date of the exemption. The earliest this transaction may be consummated is June 6, 2018, the effective date of the exemption.

If the verified 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

² On March 29, 2018, HGS-ATN filed a verified notice of exemption to acquire the Lines from CSXT in HGS-ATN, LLC—Acquisition Exemption—CSX Transportation, Inc., Docket No. FD 36175.

³ On March 19, 2018, ATN certified to the Board that on, March 16, 2018, it posted notice of the transaction at the workplace of the employees on the Lines, and on March 19, 2018, it served a copy of the notice on the national office of the potentially affected employees' labor union as required under 49 CFR § 1150.42(e). However, on March 22, 2018, ATN sought waiver of the 60-day notice requirements. Because the exemption will not become effective until June 6, 2018, ATN's request for waiver will be dismissed as moot.

effectiveness of the exemption. Petitions for stay must be filed no later than May 30, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36173, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Karl Morell & Associates, 440 1st Street, N.W., Suite 440, Washington, DC 20001.

According to ATN, this action is excluded from environmental review under 49 C.F.R. § 1105.6(c).

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Decided: May 18, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.