

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36110]

Texas & Eastern Railroad, LLC—Change in Operator Exemption—Texas State Railroad Authority

Texas & Eastern Railroad, LLC (T&ER), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to assume operations over approximately 27 miles of rail line (the Line), between Rusk and Palestine, in Anderson and Cherokee Counties, Tex.¹ T&ER states that the Line is owned by the Texas Parks and Wildlife Authority and leased to the Texas State Railroad Authority (TSRA). In 2012, TSRA leased the Line to Rusk, Palestine & Pacific Railroad, LLC. (RP&P).² The verified notice indicates that, as a result of this transaction, T&ER will become a carrier and replace RP&P as the Line's exclusive lessee and operator. According to T&ER, RP&P is aware that TSRA plans to change operators over the Line.

The verified notice indicates that RP&P and Union Pacific Railroad Company (UP) have an existing agreement that allows RP&P to operate over approximately 1.3 miles of track owned and operated by UP between a point where the Line connects with UP and UP's yard located in Palestine, Tex. T&ER states that it will either take assignment of the existing interchange agreement or enter into a new agreement.

¹ According to T&ER, there are no mileposts on the Line.

² See Rusk, Palestine & Pac. R.R.—Operation Exemption—Tex. State R.R. Auth., FD 35669 (STB served Sept. 14, 2012).

This transaction is related to a concurrently filed verified notice of exemption in David L. Durbano—Continuance in Control Exemption—Texas & Eastern Railroad, LLC, Docket No. FD 36111, in which David L. Durbano seeks to continue in control of T&ER upon T&ER's becoming a Class III rail carrier.

T&ER certifies that the underlying lease and operation agreement does not contain any provision or agreement that would limit future interchange with a third-party connecting carrier. Further, T&ER certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier. Under 49 C.F.R. § 1150.32(b), a change in operator requires that notice be given to shippers. T&ER certifies that notice of the change of operator was served on all known shippers on the Line on April 3, 2017.

The earliest this transaction can be consummated is May 3, 2017, 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 effectiveness of the exemption. Petitions for stay must be filed no later April 26, 2017 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36110, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on William A.

Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington,
DC 20037.

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Decided: April 14, 2017.

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