

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36182¹

NORTH CENTRAL MISSISSIPPI REGIONAL RAILROAD AUTHORITY—ACQUISITION
AND OPERATION EXEMPTION—MISSISSIPPI DEPARTMENT OF TRANSPORTATION

Docket No. FD 36224

NORTH CENTRAL MISSISSIPPI REGIONAL RAILROAD AUTHORITY AND GRENADA
RAILWAY, LLC—CORPORATE FAMILY TRANSACTION EXEMPTION

Decided: October 12, 2018

On September 13, 2018, North Central Mississippi Regional Railroad Authority (NCMRRA), a noncarrier, filed two related verified notices of exemption. In Docket No. FD 36182, NCMRRA filed a verified notice of exemption, pursuant to 49 C.F.R. § 1150.31, to acquire and operate a 21.70-mile rail line owned by the Mississippi Department of Transportation (MSDOT). NCMRRA asserts that it would become a rail carrier through this acquisition. In Docket No. FD 36224, NCMRRA and its wholly-owned subsidiary, Grenada Railway, LLC (GRYR) (collectively, the Parties) filed a verified notice of exemption, pursuant to 49 C.F.R. § 1180.2(d)(3), for a transaction within a corporate family.² The Parties assert that the purpose of the transaction is to allow NCMRRA to bring its control of GRYR, a Class III carrier, and itself under the same corporate family once NCMRRA becomes a rail carrier.

The exemptions were scheduled to become effective on October 13, 2018, but, as discussed below, the notice of exemption filed in Docket No. FD 36224 will be rejected, as the corporate family exemption procedures are not appropriate for that transaction, and the notice of exemption in Docket No. FD 36182 will be held in abeyance pending resolution of the issues raised in Docket No. FD 36224.

¹ These proceedings are not consolidated. A single decision is being issued for administrative purposes.

² NCMRRA states that in 2015 it purchased the stock and assumed control of GRYR after GRYR filed for abandonment authority. See Grenada Ry.—Aban. Exemption—in Montgomery, Carroll, Holmes, Yazoo, & Madison Ctys, Miss., AB 1087 (Sub-No. 1X) et al. (STB served Feb. 25, 2016).

According to the verified notice in Docket No. FD 36182, the 21.70-mile rail line NCMRRA seeks to acquire and operate extends from milepost H-0.20 (at Aberdeen Junction) to milepost H-21.90 (at Kosciusko), in Holmes and Attala Counties, Miss. (Kosciusko Line).³ Based on the maps that were included with both verified notices, it appears that the Kosciusko Line connects to the rail line owned by GRYR at milepost H-0.20 at Aberdeen Junction.⁴

The Board's class exemption procedures provide an expedited means of obtaining Board authority for certain classes of transactions. Notices of exemption are intended to be used for routine and non-controversial cases. See Passaic St. Props.—Acquis. & Operation Exemption—N.Y. & Greenwood Lake Ry., FD 36187, slip op. at 3 (STB served July 18, 2018). A notice that raises unresolved issues or questions that require considerable scrutiny may be rejected. Tri-City R.R.—Lease & Operation Exemption—N. Pac. Dev., LLC, FD 36170, slip op. at 1 (STB served Mar. 21, 2018).

In Docket No. FD 36224, the Parties filed a notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(3) for a transaction within a corporate family. In this case, however, NCMRRA's status would change from non-carrier to carrier as a result of acquiring the Kosciusko Line from a third party. Although NCMRRA would become a carrier, the corporate structure would remain the same with NCMRRA as the parent entity in control of GRYR. Therefore, the Parties' notice of exemption filed in Docket No. FD 36224 will be rejected because § 1180.2(d)(3) is not an appropriate exemption for that transaction.

Instead, the proposed corporate transaction requires continuance in control authority from the Board, as NCMRRA's acquisition will result in two operating carriers within the same corporate family where before there was only one. 49 U.S.C. § 11323. However, the Board's class exemption for continuance in control under 49 C.F.R. § 1180.2(d)(2) cannot be invoked here, because the Kosciusko Line that NCMRRA would acquire appears to connect with GRYR's line. Therefore, if NCMRRA and GRYR wish to obtain the necessary authority, a petition for exemption may be filed.

Because NCMRRA cannot acquire the Kosciusko Line (and thus become a rail carrier) independent of the needed continuance in control authority, the notice of exemption in Docket No. FD 36182 will be held in abeyance and the effective date of the exemption will be postponed while the Board addresses any such petition that is filed.

³ NCMRRA states that MSDOT purchased the Kosciusko Line from Illinois Central Railroad Company (IC) through the offer of financial assistance process after IC filed for authority to abandon the rail line. See Ill. Cent. R.R.—Aban.—Between Aberdeen Junction & Kosciusko, in Holmes & Attala Cts., Miss., AB 43 (Sub-No. 163) (STB served Apr. 17, 1997).

⁴ See Grenada Ry.—Acquis. & Operation Exemption—Ill. Cent. R.R. & Waterloo Ry., FD 35247 (STB served May 29, 2009) (authorizing GRYR to acquire and operate an approximately 175.4-mile rail line between milepost 403.0, at Southaven and milepost 703.8, near Canton, Miss.).

It is ordered:

1. The notice of exemption in Docket No. FD 36224 is rejected.
2. The notice of exemption in Docket No. FD 36182 is held in abeyance and the effective date is postponed until further Board order.
3. This decision is effective on its date of service.

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