

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35748]

City of Pickens, S.C. and City of Easley, S.C.—Acquisition Exemption—Pickens

Railway Company

The City of Pickens, S.C., and the City of Easley, S.C. (collectively, the Cities or Petitioners), both noncarrier political subdivisions of the State of South Carolina, have filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Pickens Railway Company (Pickens Railway) approximately 8.5 miles of railroad right-of-way between milepost 0.0, at or near Pickens, and milepost 8.5, at or near Easley.¹

In a related prior transaction, Pickens Railway filed a verified notice of exemption in September 2012 to abandon the Line,² and the Board issued a Notice of Interim Trail Use or Abandonment (NITU) under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29 to permit the Cities to negotiate with Pickens Railway to acquire the Line for use as a trail (rail banking/interim trail use).³ On

¹ The rail line between milepost 0.0 and milepost 8.5 will be referred to as the Line. The Cities are acquiring the Line's right-of-way, but not its track or track material.

² See Pickens Ry.—Aban. Exemption—in Pickens Cnty., S.C., AB 1097X (STB served Sept. 27, 2012).

³ See Pickens Ry.—Aban. Exemption—in Pickens Cnty., S.C., AB 1097X (STB served Oct. 26, 2012). By decision served on May 17, 2013, the NITU negotiating period was extended until October 21, 2013. A rail-banked line is subject to future reactivation of rail service. See 49 C.F.R. § 1152.29(a)(3), (c)(2), (d)(2).

July 2, 2013, Petitioners filed, in the abandonment docket, a notice that a rail banking/interim trail use agreement had been reached with Pickens Railway.⁴

Here, Petitioners state that they have entered into an agreement with Pickens Railway in which Pickens Railway will convey its ownership interests in the rail line corridor, including the “residual common carrier status” (i.e., the legal right to reactivate common carrier service), to the Cities. This conveyance will exclude the track and most of the track material, which Pickens Railway will retain the right to salvage. Thus, Petitioners assert that, as a result of this acquisition transaction combined with the rail banking/interim trail use agreement in the abandonment docket, the Cities will hold all of the non-track rail assets that constitute the Line and will acquire ownership of and responsibility for the corridor as trail sponsor, including the common carrier reactivation right.

The transaction is expected to be consummated on or after August 1, 2013 (30 days after the notice of exemption was filed).

The Cities certify that the projected annual revenues as a result of this transaction will not exceed \$5 million or exceed those that would qualify either city, or both, as a Class III rail carrier.

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

⁴ See Notice of Interim Trail Use Agreement, Pickens Ry.—Aban. Exemption—
in Pickens Cnty., S.C., AB 1097X (filed July 2, 2013).

effectiveness of the exemption. Petitions to stay must be filed no later than July 25, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35748, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy must be served on William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: July 12, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.