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SERVICE DATE – MARCH 15, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36233

HERRIN RAILROAD, LLC—ACQUISITION & OPERATION EXEMPTION—CITY OF
HERRIN, ILL.

Decided: March 15, 2019

Herrin Railroad, LLC (HR), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to lease from the City of Herrin (City), and to operate, approximately 3.7 miles of rail lines currently operated by Progressive Rail Incorporated (PGR).¹ The rail lines to be leased and operated by HR consist of PGR's Herrin District between milepost 10.7 and milepost 13.4, and north of the wye track between milepost C94 and milepost C93 at Herrin, in Williamson County, Ill. (the Lines).

HR's verified notice states that the City owns the Lines and that PGR "has operated the [Lines] pursuant to an agreement with [the City] since 2012." (Verified Notice 3-4.) PGR, however, obtained Board authority in 2012 to purchase the Lines from Crab Orchard & Egyptian Railroad Company (COER), though the record of that case does not indicate whether PGR consummated that purchase. See Progressive Rail Inc.—Acquis. & Operation Exemption—Rail Lines of Crab Orchard & Egyptian R.R., FD 35656, slip op. at 1 (STB served Sept. 21, 2012) (seeking to acquire and operate 12.23 miles of COER's rail lines, including the Lines). Given this prior authority, and the fact that it is unclear how the City came to own the Lines as HR asserts, HR will be directed to supplement its notice to clarify when and from whom the City acquired the Lines, and whether the City received authority from the Board to do so. Additionally, HR should clarify whether the authority HR seeks for this transaction is for acquisition and operation or instead a change in operators exemption under 49 C.F.R. § 1150.31(a)(3). (See Verified Notice 3 (stating that the intent of the proposed transaction is for HR's operations to "replace" PGR's).)

¹ On February 28, 2019, HR supplemented its notice with a corrected Appendix 3.

It is ordered:

1. The exemption that is the subject of this proceeding will not become effective until further order of the Board.
2. HR is directed to file the supplemental information described above no later than March 29, 2019.
3. The decision is effective on its service date.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.