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SERVICE DATE – MARCH 21, 2018

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36170

TRI-CITY RAILROAD COMPANY, LLC—LEASE AND OPERATION EXEMPTION—
NORTHERN PACIFIC DEVELOPMENT, LLC

Decided: March 20, 2018

On March 6, 2018, Tri-City Railroad Company, LLC (TCRY), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease and operate an approximately 0.85-mile segment of track in Benton County, Wash. (the Line), owned by Northern Pacific Development, LLC (Northern Pacific), a non-carrier.

In its notice, TCRY states that the Line, which contains no mileposts, “connects with a Public Rail Line (which the STB determined to be excepted track) owned by the City of Richland, WA for approximately 200 feet then connecting with” a line of rail operated by TCRY pursuant to a lease agreement with the Port of Benton. TCRY states that it has entered into an agreement with Northern Pacific for rail switching services that is scheduled to commence on April 30, 2018.

The Board’s class exemption procedures provide an expedited means of obtaining Board authority for certain classes of transactions involving routine matters. A notice that raises unresolved issues or questions that require considerable scrutiny may be rejected. E.g., Pro-Go Corp.—Operation Exemption—in Suffolk Cty., N.Y., FD 35120 (STB served Mar. 13, 2008).

TCRY’s notice of exemption will be rejected. The notice raises issues that require a more detailed examination than the expedited notice of exemption process is designed to provide. For example, although TCRY appears to seek an exemption to operate the Line as mainline track, it is unclear whether the Line is more properly characterized as “excepted track” under 49 U.S.C. § 10906. Furthermore, the Line appears to connect with the interstate rail network only via track that the Board deemed “excepted” in a declaratory order proceeding last year, Tri-City Railroad—Petition for Declaratory Order, FD 36037 (STB served June 1, 2017), and TCRY does not articulate or provide any evidence of whether it has obtained authorization from the City of Richland (Richland) to serve TCRY’s own traffic over the 200-foot section of Richland’s excepted track. In the declaratory order proceeding, TCRY indicated that it was “banned” from accessing any shippers on Richland’s track. (TCRY Pet. 9, May 25, 2016, Tri-City R.R.—Pet. for Declaratory Order, FD 36037.) Finally, in filing its notice, TCRY fails, among other things, to comply with 49 C.F.R. § 1150.43(f), which requires a map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and states. It

is difficult to glean any information from the maps provided. Indeed, it is not entirely apparent which track TCRY seeks to lease and operate.

Accordingly, if TCRY wishes to seek lease and operation authority from the Board with respect to the Line, it must file a petition for exemption or an application, either of which would allow the more comprehensive review that is required here (including, but not limited to, the issues noted above).

For the foregoing reasons, the notice of exemption will be rejected.

It is ordered:

1. TCRY's verified notice of exemption is rejected.
2. This decision is effective on its date of service.

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