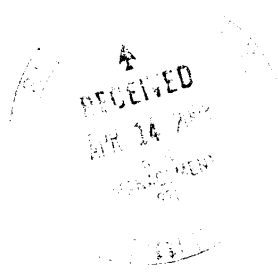


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April 14, 2003



Edward J. Fishman
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efishman@kl.com

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

FILED
APR 14 2003
SURFACE
TRANSPORTATION BOARD

**Re: Finance Docket No. 34338, Metro Regional Transit Authority -
Acquisition Exemption – Certain Assets Of Akron Barberton
Cluster Railway Company**

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Verified Notice Of Exemption Of Metro Regional Transit Authority Pursuant To 49 C.F.R. § 1150.32**. A check in the amount of \$1,300.00, representing the appropriate fee for the Notice of Exemption, is enclosed.

Should any questions arise regarding these filings, please feel free to contact me. Thank you for your assistance in this matter.

FEE RECEIVED
APR 14 2003
SURFACE
TRANSPORTATION BOARD

Respectfully submitted, -

Edward J. Fishman
Attorney for Metro Regional Transit
Authority

Enclosures

ENTERED
Office of Proceedings

APR 15 2003

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34338

METRO REGIONAL TRANSIT AUTHORITY
--ACQUISITION EXEMPTION--
CERTAIN ASSETS OF
AKRON BARBERTON CLUSTER RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
OF
METRO REGIONAL TRANSIT AUTHORITY
PURSUANT TO 49 C.F.R. § 1150.32

FILED
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TRANSPORTATION BOARD

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Office of Proceedings

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Part of
Public Record

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John M. Coyne, III, Esq.
Roetzel & Andress
222 South Main Street
Akron, OH 44308
(330) 376-2700

ATTORNEYS FOR METRO
REGIONAL TRANSIT AUTHORITY

FEE
APR 14 2003
SURFACE
TRANSPORTATION BOARD

Dated: April 14, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34338

METRO REGIONAL TRANSIT AUTHORITY
--ACQUISITION EXEMPTION--
CERTAIN ASSETS OF
AKRON BARBERTON CLUSTER RAILWAY COMPANY

**VERIFIED NOTICE OF EXEMPTION
OF
METRO REGIONAL TRANSIT AUTHORITY
PURSUANT TO 49 C.F.R. § 1150.32**

Metro Regional Transit Authority ("METRO"), a regional transit authority created and existing under Ohio Revised Code Chapter 306, hereby files this Notice of Exemption under 49 C.F.R. § 1150.31, et seq. to acquire from Akron Barberton Cluster Railway Company ("ABC") certain interests in a portion of ABC's rail line and right-of-way between approximately milepost 8.00 in Cuyahoga Falls, Ohio and approximately milepost 11.49 in Akron, Ohio (the "Subject Line"). The total distance of the Subject Line to be acquired by METRO is approximately 3.49 route miles in Summit County, Ohio.

Pursuant to an Agreement of Sale dated October 2, 2002 by and between METRO and ABC ("Agreement of Sale"), METRO will acquire all of ABC's right, title, and ownership interest in and to the right-of-way, trackage, and other physical assets of the Subject Line. Under the terms of the Agreement of Sale, METRO's acquisition will be subject to ABC's reservation of an exclusive freight rail operations easement on the Subject Line to serve or have a third party operator serve freight rail customers on the Subject Line (the "Operations Easement"). No active

freight rail customers are currently located on the Subject Line and there have been no local or overhead freight rail operations on the Subject Line for the past several years. ABC will retain the exclusive right and obligation to provide common carrier freight rail operations on the Subject Line to any future customers that locate thereon. ABC's use of the Subject Line for such service will be governed by a Shared Use Agreement to be entered into by and between METRO and ABC. METRO will not acquire the right or obligation to conduct any freight rail operations on the Subject Line.

METRO expects to file in this docket a motion to dismiss this Notice. METRO is utilizing this procedure to obtain a jurisdictional determination regarding its prospective common carrier status on the Subject Line. See State of Maine, Department of Transportation – Acquisition and Operation Exemption – Maine Central Railroad Company, 8. I.C.C.2d 835 (1991).

In accordance with the requirements of 49 C.F.R. § 1150.33, METRO submits the following:

Advance Notice: 49 C.F.R. § 1150.32(e)

The projected annual freight revenue of METRO will not exceed \$5 million. Accordingly, the requirements of 49 C.F.R. § 1150.32(e) do not apply to this transaction.

Name and Address of Applicant: 49 C.F.R. § 1150.33(a)

The full name and address of the applicant herein is as follows:

Metro Regional Transit Authority
416 Kenmore Boulevard
Akron, Ohio 44301
Attn: Director - Rail Operations

Applicant's Representatives: 49 C.F.R. § 1150.43(b)

Edward J. Fishman, Esq.
Kirkpatrick & Lockhart LLP
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Second Floor
Washington, DC 20036
(202) 778-9000

John M. Coyne, III, Esq.
Roetzel & Andress
222 South Main Street
Akron, Ohio 44308
(330) 376-2700

Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)

Pursuant to an Agreement of Sale by and between METRO and ABC, ABC will convey to METRO the right-of-way, trackage, and other physical assets associated with the Subject Line.

Operation of the Property: 49 C.F.R. § 1150.43(d)

METRO will not operate any freight rail service on the Subject Line. ABC will retain the exclusive right to conduct rail freight service on the Subject Line pursuant to the Operations Easement.

Summary of the Transaction: 49 C.F.R. § 1150.33(e)

Pursuant to the Agreement of Sale entered into by and between METRO and ABC, METRO will acquire ABC's right, title, and ownership interest in the right-of-way, trackage, and other physical assets associated with the railroad line extending between approximately milepost 8.00 in Cuyahoga Falls, Ohio and approximately milepost 11.49 in Akron, Ohio, a total distance of approximately 3.49 route miles in Summit County, Ohio. ABC will retain an Operations Easement on the Subject Line. METRO will not acquire the right or obligation to operate freight rail service on the Subject Line.

The name and address of the railroad transferring the Subject Line is as follows:

Akron Barberton Cluster Railway Company
100 East First Street
Brewster, Ohio 44713

METRO expects to file a motion to dismiss this Notice in order to obtain a jurisdictional determination regarding METRO's prospective status as a common carrier on the Subject Line. METRO will not consummate acquisition of the Subject Line until this Notice becomes effective.

Map: 49 C.F.R. § 1150.33(f)

A map showing the Subject Line is attached as Exhibit A to this Notice.

Certification of Class III Status: 49 C.F.R. § 1150.33(g)

The projected revenues of METRO as a result of this transaction will not result in the creation of a Class I or Class II rail carrier. A certificate complying with the provisions of 49 C.F.R. § 1150.43(g) is attached as Exhibit B to this Notice.

Environmental/Historic Preservation Data: 49 C.F.R. Part 1105

Under the clear intent of 49 C.F.R. § 1105.6(c)(2), the proposed acquisition of the Subject Line by METRO is exempt from environmental reporting requirements. METRO's acquisition of the line will not result in any changes in carrier operations (i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5)).

Under 49 C.F.R. § 1105.8(b)(1), the proposed acquisition of the Subject Line by METRO also is exempt from historic preservation reporting requirements. METRO's acquisition of the line will not interrupt or disturb common carrier obligations on the Subject Line. Further Surface Transportation Board approval is required to abandon any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.34

A caption summary in the appropriate form is attached as Exhibit C to this Notice.

Respectfully submitted,



Edward J. Fishman, Esq.
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**ATTORNEYS FOR METRO
REGIONAL TRANSIT AUTHORITY**

Dated: April 14, 2003

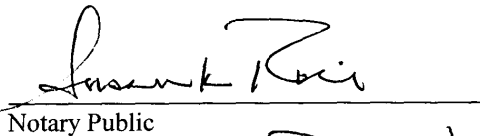
EXHIBIT B
CERTIFICATION

State of Ohio)
) SS:
County of Summit)

I, Robert K. Pfaff, certify under penalty of perjury that the projected revenues of Metro Regional Transit Authority upon consummation of the proposed transaction will not result in the creation of a Class I or Class II rail carrier under the provisions of 49 C.F.R. § 1201(1-1).


ROBERT K. PFAFF

Subscribed and sworn to before me, a notary public, this 24 day of March, 2003.


Notary Public

My commission Expires: December 23, 2003

(seal)

EXHIBIT C

SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34338

**METRO REGIONAL TRANSIT AUTHORITY
--ACQUISITION EXEMPTION--
CERTAIN ASSETS OF
AKRON BARBERTON CLUSTER RAILWAY COMPANY**

Metro Regional Transit Authority ("METRO"), a regional transit authority, has filed a notice of exemption under 49 C.F.R. § 1150.31, et seq. to acquire from Akron Barberton Cluster Railway Company ("ABC") certain assets of a line of railroad extending between approximately milepost 11.49 in Akron, Ohio and approximately milepost 8.00 in Cuyahoga Falls, Ohio, a distance of approximately 3.49 route miles in Summit County, Ohio (the "Subject Line"). ABC will retain an exclusive freight railroad operations easement ("Operations Easement") on the Subject Line.

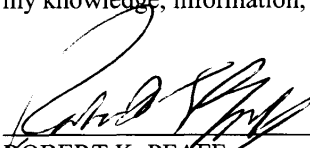
METRO expects to file in this docket a motion to dismiss its notice of exemption ("Notice"). METRO is utilizing this procedure to obtain a jurisdictional determination regarding its prospective common carrier status with respect to the Subject Line. See State of Maine, Department of Transportation – Acquisition and Operation Exemption – Maine Central Railroad Company, 8. I.C.C.2d 835 (1991).

METRO will not under any circumstances consummate this acquisition until this Notice becomes effective. Comments must be filed with the Board and served on Edward J. Fishman, Esq., Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue, Second Floor, Washington, DC

VERIFICATION

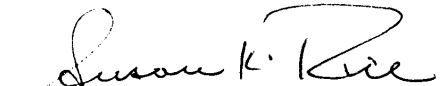
State of Ohio)
) SS:
County of Summit)

I, Robert K. Pfaff, verify under penalty of perjury that I am ^{EXECUTIVE DIRECTOR}~~General Manager/Secretary-~~
Treasurer of the Metro Regional Transit Authority, that I have read the foregoing Notice of
Exemption and know the facts asserted therein, and that the same are true as stated, to the best of
my knowledge, information, and belief.



ROBERT K. PFAFF

Subscribed and sworn to before me, a notary public, on this 24 day of March, 2003.



Notary Public

My Commission expires: December 23, 2003

(seal)