

The Lines connect with AARR at AARR milepost 0.0 (Galena Street) and AARR milepost 1.0 (Manhattan Junction) in Toledo. Traffic moving to and from the Lines will have access to AARR connecting carriers NSR, Canadian National Railway Company (CN), CSX Transportation, Inc., and Wheeling & Lake Erie Railway in Toledo; the Indiana and Ohio Railway and CN in Diann, Mich.; NSR in Milan, Mich.; and Great Lakes Central Railroad in Ann Arbor, Mich.³

AARR certifies that its projected annual revenues as a result of this transaction will not result in AARR becoming a Class I or Class II rail carrier but that its projected annual revenues will exceed \$5 million. On June 24, 2013, AARR certified to the Board that it posted the notice required by 49 CFR 1150.42(e) at the workplace of the employees on the Lines, and that it served a copy of the notice on the national offices of the labor unions with employees on the Lines.

The earliest the transaction can be consummated is August 23, 2013, (60 days after AARR submitted its certification to the Board). See 49 CFR 1150.42(e); *Progressive Rail Inc.—Acquis. & Operation Exemption—Rail Lines of Crab Orchard & Egyptian R.R.*, FD 35656, slip op. at 2–3 (STB served Oct. 5, 2012).

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 would not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than August 16, 2013 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35729, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, BALL JANIK LLP, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at “www.stb.dot.gov.”

It is ordered:

1. The delegation of authority to the Director of the Office of Proceedings under 49 CFR 1011.7(a)(2)(x)(A) to determine whether to issue a notice of exemption in this proceeding is revoked.

2. This decision is effective on the date of service.

Decided: July 9, 2013.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey. Commissioner Mulvey dissented with a separate expression.

Jeffrey Herzig,
Clearance Clerk.

Commissioner Mulvey, Dissenting

I disagree with the Board’s decision to allow this transaction to be processed under the class exemption procedures because I believe that additional scrutiny of the interchange commitment is necessary. Although AARR asserts that the interchange commitment (which takes the form of a per car lease credit) will enable it to invest in the two leased lines, this is a generic rationale that sheds no light on how the interchange commitment will affect competition. Moreover, the leased lines, although short, contain many potential interchange points. The interchange commitment in the lease agreement creates a disincentive for AARR to interchange with the five other carriers with which it connects. The Board needs to take a closer look at transactions such as these that purport to increase investment incentives but also serve to limit competition that might otherwise develop.¹

[FR Doc. 2013–16782 Filed 7–11–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35672]

RSL Railroad LLC—Operation Exemption—Massillon Energy & Technology Park

On September 10, 2012, RSL Railroad, LLC (RSL), filed a verified notice of exemption (Notice) under 49 CFR 1150.31 to operate an approximately 1.27-mile line, in Massillon, Stark County, Ohio, from milepost 0.0 to milepost 1.27± (the Line), pursuant to an agreement with Massillon Energy & Technology Park (Massillon), the owner of the Line. By decision served October 3, 2012, on RSL’s motion, the Board held the Notice in abeyance pending record supplementation and further Board action. RSL supplemented the record on April 26, 2013, and June 4, 2013. The abeyance in this proceeding will be lifted upon service of this Notice.

This transaction is related to a notice of exemption filed in *Transport*

¹ In *Information Required in Notices and Petitions Containing Interchange Commitments*, EP 714 (STB served Nov. 1, 2012), the Board proposed new rules that would require carriers to disclose more information when proposing transactions, such as this one, that contain an interchange commitment. The comment period in this rulemaking closed in January 2013 and the matter remains pending at the Board.

Handling Specialists, Inc.—Continuance in Control Exemption—RSL Railroad, LLC, Docket No. FD 35726, in which Transport Handling Specialists, Inc. (THS), is seeking Board authority to continue in control of RSL upon RSL’s becoming a Class III rail carrier.

RSL states that it will operate over track that will be rehabilitated. RSL states that it intends to interchange traffic with “the NS Industrial line,”¹ and possibly with R.J. Corman Railroad. In addition, RSL states that the memorandum of understanding² between RSL and Massillon does not contain any interchange commitments, and that there will be no interchange commitments between RSL and its connecting carriers.

The transaction may be consummated on or after July 26, 2013 (the effective date of this exemption).

RSL certifies that its projected annual revenues as a result of the transaction will not exceed those that would make it a Class III rail carrier and will not exceed \$5 million.

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 effectiveness of the exemption. Stay petitions must be filed by July 19, 2013 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35672, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Baxter Wellmon, 1554 Paoli Pike #179, West Chester, PA 19380.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: July 9, 2013.

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

Jeffrey Herzig,
Clearance Clerk.

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¹ Notice 3 (Sept. 10, 2012). The reference is to Norfolk Southern Railway.

² Because Massillon is not a common carrier subject to Board jurisdiction, RSL filed with the Board a copy of its memorandum of understanding with Massillon. See *Anthony Macrie—Continuance in Control Exemption—N.J. Seashore Lines, Inc.*, FD 35296, *et al.*, slip op. at 3 (STB served Aug. 31, 2010).

³ *Id.* at 5.