



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36278]

Akron Barberton Cluster Railway Company—Acquisition Exemption—Board of Portage County Commissioners

Akron Barberton Cluster Railway Company (ABC), a Class III carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire the entire line of railroad owned by the Board of Portage County Commissioners, in Portage County, Ohio (the Line). The Line extends from milepost 190.04 near Kent, Ohio, to milepost 182.82 near Ravenna, Ohio, a total distance of 7.22 miles. ABC is the current operator of the Line.¹

ABC certifies that the projected annual rail revenues of ABC as a result of the proposed transaction will not exceed \$5 million and the transaction will not result in the creation of a Class II or a Class I rail carrier. ABC states that the proposed transaction does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

¹ In 1994, ABC obtained authority to acquire from Consolidated Rail Corporation (Conrail) and operate the nearly adjoining line segment between milepost 192.51 and milepost 190.05. See Akron Barberton Cluster Ry.—Acquis. & Operation Exemption—Certain Lines of Consol. Rail Corp., FD 32537 (ICC served Aug. 10, 1994). In its verified notice here, however, ABC indicates that Conrail's transfer to ABC in 1994 also included an additional 0.01-mile segment between milepost 190.05 and milepost 190.04, for which authority was not received. ABC asks that, to the extent any further authority is deemed necessary for ABC to acquire that segment, such authority be included as part of the exemption invoked here. However, such after-the-fact authority for acquisition from Conrail cannot be granted in this proceeding. ABC should file a new notice seeking the appropriate authority for the additional segment. See, e.g., Ga. Dep't of Transp.—Acquis. Exemption—CSX Transp., Inc., FD 35591 (STB served Feb. 27, 2012).

ABC states that it intends to consummate the transaction on or after April 11, 2019; however, the earliest this transaction may be consummated is April 12, 2019, the effective date of the exemption (30 days after the verified notice was filed).

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. Petitions to stay must be filed no later than April 5, 2019 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36278, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Michael J. Barron, Fletcher & Sippel, LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to ABC, this action is exempt from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: March 26, 2019.

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

Kenyatta Clay

Clearance Clerk

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