

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35126

PRO-GO CORP.—OPERATION EXEMPTION—IN SUFFOLK COUNTY, NY

Decided: April 16, 2008

This decision imposes a housekeeping stay of the Federal Register publication date of the notice of exemption and the effective date of the exemption in this proceeding pending resolution of issues raised in a petition for reconsideration in a related proceeding and further order of the Board.

BACKGROUND

On February 28, 2008, Pro-Go Corp. (Pro-Go) filed a verified notice of exemption under the class exemption at 49 CFR 1150.31 in STB Finance Docket No. 35120, Pro-Go Corp.—Operation Exemption—in Suffolk County, NY (Pro-Go I), to operate a rail line—a set of three tracks totaling about 1 mile in length—described as extending between approximately mileposts 50 and 52 on the Long Island Railroad in Holtsville, Suffolk County, NY. By decision served on March 13, 2008 (March 13 Decision), the notice was rejected because Pro-Go failed to submit sufficient information for the Board to determine whether the proposed transaction qualified for the class exemption. The rejection was without prejudice to Pro-Go refiling a new notice or some other request for authority that provided clear and adequate information in response to a number of questions about the proposed transaction raised in the March 13 Decision.

On April 2, 2008, Pro-Go filed a petition for reconsideration of the March 13 Decision. Simultaneously, Pro-Go filed a verified notice of exemption in this docket for the identical authority Pro-Go had sought in the notice rejected in Pro-Go I. In the absence of a stay, the notice in this docket would need to be published in the Federal Register by April 18, 2008, and the exemption would be due to become effective on May 2, 2008.

DISCUSSION AND CONCLUSIONS

A housekeeping stay of the publication date of the notice and the effective date of the exemption is appropriate here. A stay will allow the Board time to consider the issues presented in Pro-Go's petition for reconsideration of the March 13 Decision. The resolution of those issues will have a bearing on both the notice previously filed in this docket and on the notice filed in Pro-Go I. Accordingly, publication of the notice and effectiveness of the exemption will be stayed pending resolution of the petition for reconsideration in Pro-Go I and further order of the Board.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The publication date of the notice of exemption and the effective date of the exemption in this proceeding are stayed pending further order of the Board.
2. This decision will be effective on its service date.

By the Board, Charles D. Nottingham, Chairman.

Anne K. Quinlan
Acting Secretary