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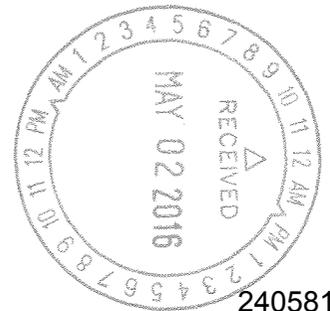
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April 29, 2016

## VIA FEDERAL EXPRESS

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W., Room 1034  
Washington, DC 20006



Re: **Docket No. FD 35995**  
**South Carolina Division of Public Railways**  
**d/b/a Palmetto Railways – Acquisition Exemption --**  
**Hampton & Branchville Railroad Company**

ENTERED  
Office of Proceedings  
May 2, 2016  
Part of  
Public Record

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of a **Petition for Waiver of Requirements of 49 C.F.R. § 1150.42(e)**, dated April 29, 2016. A check in the amount of \$600.00, representing the appropriate fee for this filing, is attached.

Please note that expedited consideration of the Petition is requested.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Thomas J. Litwiler".

Thomas J. Litwiler  
Attorney for South Carolina Division of  
Public Railways d/b/a Palmetto Railways

TJL:tl

Enclosures

FEE RECEIVED  
May 2, 2016  
SURFACE  
TRANSPORTATION BOARD

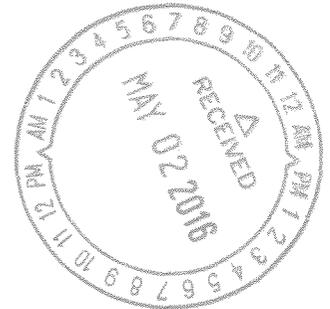
FILED  
May 2, 2016  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 35995

SOUTH CAROLINA DIVISION OF PUBLIC RAILWAYS  
D/B/A PALMETTO RAILWAYS  
-- ACQUISITION EXEMPTION --  
HAMPTON & BRANCHVILLE RAILROAD COMPANY



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**PETITION FOR WAIVER OF  
REQUIREMENTS OF 49 C.F.R. § 1150.42(e)**

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**EXPEDITED CONSIDERATION REQUESTED**

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**ATTORNEYS FOR  
SOUTH CAROLINA DIVISION OF PUBLIC  
RAILWAYS d/b/a PALMETTO RAILWAYS**

Dated: April 29, 2016

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 35995

SOUTH CAROLINA DIVISION OF PUBLIC RAILWAYS  
D/B/A PALMETTO RAILWAYS  
-- ACQUISITION EXEMPTION --  
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**PETITION FOR WAIVER OF  
REQUIREMENTS OF 49 C.F.R. § 1150.42(e)**

South Carolina Division of Public Railways d/b/a Palmetto Railways ("Palmetto") hereby petitions the Board for a waiver of the 60-day labor notice requirements of 49 C.F.R. § 1150.42(e), to the extent those requirements are applicable to the proposed transaction in this proceeding. As there have been no "employees on the affected lines" for more than three years, compliance with the notice provisions of 49 C.F.R. § 1150.42(e) is not possible or necessary and waiver is appropriate.

Palmetto is filing concurrently herewith a notice of exemption pursuant to 49 C.F.R. § 1150.41, *et seq.* to acquire the entire line of railroad of Hampton & Branchville Railroad Company ("H&B"), extending a total distance of approximately 45.77 miles in Colleton and Hampton Counties, South Carolina. H&B ceased rail operations on December 28, 2012 when H&B's then sole remaining customer, the South Carolina Electric & Gas power plant at Canadys, South Carolina, announced the closing of its coal-fired generating units. H&B's rail line has remained out of service since that time, and H&B no longer has any employees other than its president.

Because Palmetto's annual rail-related revenues exceed \$5 million, 49 C.F.R. § 1150.42(e) would otherwise require Palmetto to post a notice of its proposed acquisition of the H&B line at the workplace of "the employees on the affected line(s)."<sup>1</sup> Because there are no such employees, posting such a notice would be a meaningless gesture -- providing notice to no one. Accordingly, Palmetto seeks waiver of 49 C.F.R. § 1150.42(e) as it might otherwise apply in this proceeding.

The purpose of the 60-day notice requirement is to ensure that employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation. Acq. of R. Lines Under 49 U.S.C. 10901 & 10902 -- Advance Notice, 2 S.T.B. 592 (1997). That purpose would not be thwarted if the waiver requested here is granted. It has been more than three years since any rail operations have been conducted on the H&B line, and there are no employees currently on the line who would or could be adversely affected by Palmetto's proposed acquisition of the line. As the Board has held in numerous prior instances, under such circumstances waiver is appropriate. E.g., Reading Blue Mountain and Northern Railroad Company -- Operation Exemption -- Locust Valley Line, Docket No. FD 34785 (STB served January 10, 2006) at 2 ("Because there are no employees working on the subject line, there is no need to post in the workplace any advance notice to employees or notify any labor unions."); The Indiana Rail Road Company -- Acquisition Exemption -- Line of Monon Rail Preservation Corporation, Docket No. FD 34531 (STB served November 22, 2004) at 3 ("[T]here are no employees of Monon, INRD or any other carrier employed on the line. Consequently, there is no need for advance notice here because posting notice would be a futile act, providing notice to no one.").

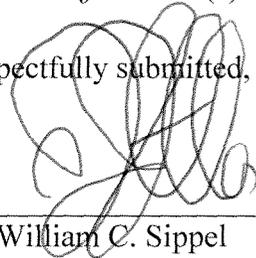
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<sup>1</sup> The regulation also requires that notice be provided to labor unions "with employees on the affected line(s)." H&B's former employees were not represented by any labor union.

Palmetto requests expedited consideration of this petition, and issuance of the requested waiver to correspond with the June 1, 2016 effective date of Palmetto's acquisition notice of exemption. Effective governmental approvals are required by early June to allow the timely issuance of economic development revenue bonds that will, in turn, permit consummation of the proposed transaction by early August. Palmetto's acquisition of the H&B line will culminate extensive efforts by public and private entities alike -- including H&B, Palmetto and county development agencies -- to assure the preservation of a rail route that would otherwise be abandoned. Particularly given the absence of any existing employees on the line, expedited consideration of this waiver request is warranted.

WHEREFORE, Palmetto respectfully requests that the Board grant this petition and waive the advance notice provisions of 49 C.F.R. § 1150.42(e) for the proposed transaction.

Respectfully submitted,

By: 

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Thomas J. Litwiler  
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SOUTH CAROLINA DIVISION OF PUBLIC  
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Dated: April 29, 2016