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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35494]

Mid-Michigan Railroad, Inc., d/b/a Texas Northeastern Railroad—Trackage Rights

Exemption—Line of Texas Department of Transportation

Pursuant to a written trackage rights agreement,¹ the Texas Department of Transportation (TxDOT), a Class III rail carrier, has agreed to grant local trackage rights to Mid-Michigan Railroad, Inc., d/b/a Texas Northeastern Railroad (TNER) over 1.28 miles of rail line, part of Union Pacific Railroad Company's (UP) Bonham Subdivision, between mileposts 127.5 and 128.78, in Fannin County, Tex.² A related verified notice of exemption was concurrently filed in Docket No. FD 35493, Texas Department of Transportation—Acquisition Exemption—Line of Union Pacific Railroad Company, in which TxDOT seeks to acquire from UP the 1.28 miles of rail line that is the subject of this transaction.

¹ A copy of the trackage rights agreement was submitted with the notice of exemption.

² The notice was originally submitted on June 3, 2011, but was supplemented on June 8, 2011. Therefore, June 8, 2011 will be the official filing date and the basis for all due dates.

The purpose of the trackage rights is to provide rail service to potential customers in Bonham, Tex., that were capable of being served by TNER pursuant to a lease of the subject line from UP.³ TNER will operate its own trains with its own crews under the trackage rights agreement. In addition to the trackage rights, TxDOT will lease the line to an operator that will provide tourist passenger operations.⁴

The proposed transaction is scheduled to be consummated on or after July 8, 2011, the effective date of the exemption (30 days after the exemption was filed).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway–Trackage Rights–Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway–Lease & Operate–California Western Railroad, 360 I.C.C. 653 (1980).

This notice is filed under 49 C.F.R. § 1180.2(d)(7). If the 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 1, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35494, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington,

³ As part of this transaction, TNER advises that the UP-TNER lease will be terminated.

⁴ At Article 1(b) of the trackage rights agreement, TxDOT states that it will “give priority to TNER’s freight train operations.” TxDOT must ensure that tourist train operations do not interfere with TNER’s ability to carry out its common carrier obligation.

DC 20423-0001. In addition, a copy of each pleading must be served on Richard H. Streeter, 5255 Partridge Lane, N.W., Washington, DC 20016.

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Decided: June 20, 2011.

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