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SEC

SERVICE DATE – DECEMBER 17, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35133

MILWAUKEE INDUSTRIAL TRADE CENTER, LLC, D/B/A MILWAUKEE TERMINAL  
RAILWAY—ACQUISITION AND OPERATION EXEMPTION—LINE OWNED BY  
MILWAUKEE INDUSTRIAL TRADE CENTER, LLC, D/B/A MILWAUKEE TERMINAL  
RAILWAY

Decided: December 16, 2008

Milwaukee Industrial Trade Center, LLC, d/b/a Milwaukee Terminal Railway (MITC), a noncarrier, filed a verified notice of exemption under 49 CFR 1150.31<sup>1</sup> to acquire and operate approximately 2 miles of rail line<sup>2</sup> that is located within MITC's 84-acre plant site (the Property) in Milwaukee, WI. Notice of the exemption was served and published in the Federal Register on May 1, 2008 (73 FR 24115). The exemption became effective on May 16, 2008.

On September 18, 2008, the Redevelopment Authority of the City of Milwaukee (RACM) filed a petition to revoke the notice of exemption, arguing that the notice contains false and misleading statements and is a device to retain and use the Property for non-rail purposes using Federal preemption as a shield. MITC replied, and both parties filed additional replies.

In a letter filed on November 21, 2008, RACM notified the Board that the parties were engaged in settlement negotiations. RACM states that MITC authorized it to represent that both parties request that the Board suspend its consideration of all pending petitions until the parties complete or terminate their discussions.

The petition to revoke raises issues that require further consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 10502(d). However, a request to hold this proceeding in abeyance is reasonable and consistent with the Board's preference for private-sector negotiation and resolution of disputes. Therefore, the request will be granted and this proceeding will be held in abeyance to give the parties' time to negotiate a resolution of the issues raised by RACM. The parties will be directed to file a joint report with the Board on the status of negotiations by March 17, 2009.

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<sup>1</sup> The notice of exemption in this proceeding originally was filed on April 14, 2008, but was amended on April 16, 2008. Therefore, the official filing date for the notice of exemption is April 16, 2008.

<sup>2</sup> The rail line proposed to be acquired and operated by MITC has been privately owned track and is made up of 31 individual tracks.

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

It is ordered:

1. Under 49 U.S.C. 10502(d), a proceeding is instituted.
2. This proceeding will be held in abeyance pending further order of the Board.
3. The parties are directed to submit a joint status report to the Board on or before March 17, 2009.
4. This decision is effective on its date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan  
Acting Secretary