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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35318]

Gabriel D. Hall—Continuance in Control Exemption—U S Rail Corporation of New Jersey

Gabriel D. Hall (Hall), a noncarrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of US Rail Corporation of New Jersey (U S RCNJ), upon U S RCNJ becoming a Class III rail carrier.

This transaction is related to the concurrently filed verified notices of exemption in: (1) STB Finance Docket No. 35310, U S Rail Corporation of New Jersey—Lease Exemption—County of Salem, NJ, wherein U S RCNJ seeks to lease from the County of Salem, NJ, an approximately 17.24 mile rail line between milepost 10.86 in Swedesboro, NJ, and milepost 28.10 in Salem, NJ (the line); and (2) STB Finance Docket No. 35317, U S Rail Corporation—Operation Exemption—U S Rail Corporation of New Jersey, wherein U S Rail Corporation, an affiliate of U S RCNJ, seeks to operate over the line.

The transactions are scheduled to be consummated on or after December 12, 2009 (30 days after the notices of exemption were filed).

Hall is a noncarrier that currently controls directly or indirectly through equity ownership two rail carriers: USRP and U S Rail Holding, LLC.

Mr. Hall states that: (1) the rail line to be acquired by lease does not connect with the lines of any other railroad controlled by Hall; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail line with any railroads controlled by Hall; and (3) the transaction does not involve a Class I railroad. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

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 for stay must be filed no later than December 4, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35318, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy must be served on Eric M. Hocky, Thorp Reed & Armstrong, LLP, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

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Decided: November 23, 2009.

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