

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35530

ARKANSAS MIDLAND RAILROAD COMPANY, INC.—TRACKAGE RIGHTS  
EXEMPTION—CADD VALLEY RAILROAD COMPANY

Digest:<sup>1</sup> This decision grants a request by one railroad to begin operations on an expedited basis over the line of another railroad per the railroads' new agreement. Doing so will avoid an interruption in current service over the affected line.

Decided: June 13, 2011

On June 7, 2011, Arkansas Midland Railroad Company, Inc. (AKMD) filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) to obtain local trackage rights over a line of railroad owned by Caddo Valley Railroad Company (CVR) between a connection with Union Pacific Railroad Company (UP) at milepost 426.88 in Gurdon, Ark., and milepost 429.45 north of Gurdon, a distance of approximately 2.57 miles. This line is known as the Gurdon Segment. Notice of the trackage rights exemption is due to be published in the Federal Register on June 14, 2011. Because Board regulations at 49 C.F.R. § 1180.4(g) require that a notice of exemption be filed at least 30 days before the covered transaction can be consummated, the earliest date AKMD could consummate the transaction by application of the pertinent rule would be by July 7, 2011.

Simultaneously with its notice, AKMD has filed a petition to partially revoke the applicable class exemption to allow the proposed trackage rights to become effective on June 15, 2011. AKMD explains that it is currently operating over CVR's Gurdon Segment pursuant to emergency service authority granted in Arkansas Midland Railroad Company, Inc.—Alternative Rail Service—Line of Caddo Valley Railroad Company, FD 35416 (STB served Sept. 17, 2010, Oct. 15, 2010, and Feb. 11, 2011). That emergency service authority expires on June 14, 2011. AKMD is attempting to purchase the Gurdon Segment from CVR, but it is unclear whether it can do so prior to June 14 due to issues with one of CVR's creditors. To ensure that there is no lapse in service on the line, AKMD is seeking the instant trackage rights and asking that they be allowed to become effective on June 15, 2011. AKMD indicates that the connecting carrier, UP, and the only active shipper on the line, Georgia-Pacific LLC, support making the trackage rights effective sooner than July 7, 2011.

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<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

Partial revocation of the class exemption, as requested by AKMD, is not necessary to effectuate the relief sought. Rather, for good cause shown here, we will waive our regulation providing that the notice of exemption for the covered transaction be filed 30 days before the transaction is consummated. Accordingly, to ensure that service continues on the line, we will waive the provision at 49 C.F.R. § 1180.4(g) and allow the trackage rights transaction to become effective on June 15, 2011.<sup>2</sup>

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

It is ordered:

1. The petition for revocation is denied.
2. The regulation described in this decision is waived, and the trackage rights transaction covered by the verified notice of exemption filed in this proceeding may become effective on June 15, 2011.
3. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

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<sup>2</sup> See N.B. Ry.—Continuance in Control Exemption—Me. N. Ry., FD 35520 et al. (STB served June 3, 2011), and CSX Transp.—Temporary Trackage Rights—Norfolk Southern Ry., FD 35460 (STB served Jan. 18, 2011).