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SERVICE DATE – LATE RELEASE JUNE 15, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35042

U S RAIL CORPORATION—LEASE AND OPERATION EXEMPTION—SHANNON  
G., A NEW JERSEY LIMITED LIABILITY COMPANY

Decided: June 15, 2007

On June 6, 2007, U S Rail Corporation (U S Rail), a Class III rail carrier,<sup>1</sup> filed a verified notice of exemption under 49 CFR 1150.41 to lease from Shannon G. (SG), a New Jersey limited liability company and noncarrier, approximately 1,400 feet of track that U S Rail states SG is currently constructing in Paterson, NJ, and to operate over it. As a result of this transaction, U S Rail states that it will provide exclusive common carrier rail freight service over the trackage serving a transload terminal owned by SG.<sup>2</sup>

Based on U S Rail's intent to provide for hire service over the trackage, it appears that SG is constructing a line of railroad subject to the Board's jurisdiction. Although Board authority is required to construct a line of railroad under 49 U.S.C. 10901, SG has not sought Board authority for its construction. U S Rail claims, without further detail, that this authority is not necessary because SG is constructing a private line and thus engaging in an activity that is not subject to the Board's licensing jurisdiction.

If the Board were to accept U S Rail's verified notice as sufficient and complete at this time and publish notice of the proposed exemption in the Federal Register, this Board action might be seen by interested persons as tacit approval of U S Rail's lease of and operation over a line of railroad that has been constructed without Board authority.

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<sup>1</sup> The carrier currently provides common carrier rail freight service as Great Miami & Scioto Railway on various lines in southern Ohio. See The Great Miami & Scioto Railway Company—Change in Operator Exemption—Certain Lines of the City of Jackson, OH, Finance Docket No. 32417 (ICC served Jan. 20, 1994). However, the carrier is in the process of changing its name to U S Rail.

<sup>2</sup> U S Rail claims that it will interchange traffic with The New York, Susquehanna and Western Railway Company (NYS&W). On June 11, 2007, NYS&W submitted a filing in which it explains that it has not entered into an interchange or switching agreement with U S Rail, and that it currently has no rail connection with SG's facility. NYS&W further stated that, should the exemption become effective, it would be prepared to negotiate arrangements to provide service to the facility.

Because the notice of exemption does not provide sufficient information to make a definitive determination that exemption authority is appropriate here, additional information is necessary for U S Rail's notice of exemption to be considered complete. As a result, U S Rail's proposed exemption will not become effective, if at all, until further order of the Board.

U S Rail is directed to file, by July 5, 2007, supplemental information describing, in detail, why SG's track qualifies as a private line of railroad. Further, U S Rail is directed to serve a copy of this decision on SG and to certify to the Board that it has done so within 5 days of the service date of this decision.

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

It is ordered:

1. The exemption that is the subject of the notice in this proceeding will not become effective until further order of the Board.

2. U S Rail is directed to file, by July 5, 2007, the supplemental information described above.

3. U S Rail is directed to serve a copy of this decision on SG and to certify to the Board that it has done so within 5 days of the service date of this decision.

4. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary