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SERVICE DATE – JULY 25, 2014

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35836]

Brownsville & Rio Grande International Railway, LLC—Change In Operator Exemption Including Interchange Commitment—Brownsville & Rio Grande International Railroad

Brownsville & Rio Grande International Railway, LLC (BRGIR), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to change operators from Brownsville & Rio Grande International Railroad (BRG) to BRGIR over certain rail lines currently operated by BRG in and around the seaport facilities of the Brownsville Navigation District of Cameron County, Tex., (the District)<sup>1</sup> at the Port of Brownsville, Tex. Specifically: (1) BRGIR will become the operator of 10.5 miles of rail line and 39.5 miles of ancillary track (collectively, the District Trackage) in and around the Port of Brownsville, including Palo Alto Yard; (2) BRG will assign to BRGIR its leasehold interests in a rail line owned by Union Pacific Railroad Company (UP) known as the

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<sup>1</sup> According to the verified notice of exemption, the District is a political subdivision of the State of Texas that manages operations within the Port of Brownsville and owns railroad trackage within the port terminal area as well as within Palo Alto Yard. BRG obtained authority to operate the District Trackage in 1984. See Brownsville & Rio Grande Int'l R.R.—Operation—Port of Brownsville, Brownsville, Tex., FD 30255 (ICC served Sept. 8, 1984). BRGIR will operate the District Trackage under a new Master Franchise Agreement (MFA) between the District and BRGIR's corporate affiliate, OmniTRAX, Inc. (OmniTRAX). When BRGIR is ready to assume railroad operations in place of BRG, OmniTRAX will convey the railroad operating rights under the MFA to BRGIR. BRGIR has submitted to the Board an unredacted copy of the MFA. See Anthony Macrie—Continuance in Control Exemption—N.J. Seashore Lines, FD 35296 (STB served Aug. 31, 2010).

“Port Lead” between milepost 2.20 near Arthur Street in Brownsville, Tex., and milepost 7.92 at a point of connection with the District Trackage at the western end of the Port of Brownsville; and (3) BRGIR will assume by assignment BRG’s overhead trackage rights over UP’s “New Port Lead” between milepost 7.49 and milepost 9.47, enabling BRGIR to access Palo Alto Yard. This change in operators is exempt under 49 C.F.R. § 1150.31(3).

BRGIR states that the existing lease that BRG will assign to BRGIR, governing operation of the Port Lead, contains an interchange commitment in favor of UP that applies to (and is limited to) traffic originating and terminating on the Port Lead. As required under 49 C.F.R. § 1150.33(h) (1), BRGIR has provided additional information concerning the interchange commitment.

BRGIR certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier. However, because its projected annual revenues will exceed \$5 million, BRGIR certifies that, pursuant to 49 C.F.R. § 1150.32(e), it provided notice on June 12, 2014, to employees on the affected lines and that notice was not served on the national offices of any rail labor union because no employees on the affected lines are represented by any labor union. Additionally, under 49 C.F.R. § 1150.32(b), a change in operators requires that notice be given to shippers. BRGIR certifies that notice has been given to all shippers on the affected lines.

The earliest this transaction can be consummated is August 11, 2014. BRGIR indicates that consummation is expected to occur on or after that date.

This transaction is related to a concurrently filed verified notice of exemption in Patrick D. Broe—Continuance in Control Exemption—Brownsville & Rio Grande International Railway, Docket No. FD 35837, in which Patrick D. Broe, OmniTRAX, and OmniTRAX Holdings, LLC seek the Board's approval under 49 C.F.R. § 1180.2(d)(2) to continue in control of BRGIR upon BRGIR's becoming a common carrier.

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 August 4, 2014 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35836, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

Board decisions and notices are available on our website at [WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided: July 21, 2014

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.