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SERVICE DATE – NOVEMBER 18, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35746

NEW ORLEANS & GULF COAST RAILWAY COMPANY, INC.—LEASE EXTENSION
EXEMPTION—UNION PACIFIC RAILROAD COMPANY

Decided: November 15, 2013

On September 25, 2013, New Orleans & Gulf Coast Railway Company, Inc. (NOGC) filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(4) for an extension of the term of NOGC's lease agreement with Union Pacific Railroad Company (UP).¹ NOGC included with its filing a redacted version of a supplement to its lease. NOGC simultaneously filed a motion for protective order and an unredacted version of the supplement under seal.

NOGC should have filed for an exemption under 49 C.F.R. § 1150.41 instead of 49 C.F.R. § 1180.2(d)(4), because the railroad was seeking to add other terms to its original lease in addition to a time extension. Before NOGC could amend its filing, however, the agency was shutdown between October 1 and October 16, 2013, due to a lapse in appropriations. Accordingly, no notice was served and published in the Federal Register in reference to the transaction.

On October 18, 2013, NOGC filed a request to withdraw its verified notice of exemption in this proceeding. NOGC notes that it will be filing a new notice of exemption pursuant to 49 C.F.R. § 1150.41.²

NOGC's request to withdraw its notice of exemption is reasonable and will be granted. Accordingly, NOGC's notice of exemption will be withdrawn, and the proceeding will be dismissed.³ The dismissal is without prejudice to NOGC's filing another notice of exemption for this transaction in the future, should it so choose.

¹ In the original agreement, UP leased to NOGC for 10 years a 7.02-mile rail line located between milepost 0.98, at Goldboro, La., and milepost 8.00, near Westwego, La., and the 4.5-mile Hooper Spur extending from the Harvey Yard, at Harvey, La., south to the end of the spur near Bayou Street. The original lease agreement was authorized by the Board in New Orleans & Gulf Coast Railway Co.—Lease Exemption—Union Pacific Railroad Co., FD 34411 (STB served Oct. 20, 2003).

² That notice of exemption was filed on November 12, 2013, in Docket No. FD 35777.

³ Withdrawal of the notice renders moot NOGC's accompanying motion for protective order.

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

It is ordered:

1. NOGC's request to withdraw its verified notice of exemption is granted. The notice of exemption is withdrawn, and this proceeding is dismissed without prejudice.

2. This decision is effective on its service date.

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