

28694

SERVICE DATE - DECEMBER 12, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33513]

CMC Railroad, Inc.--Operation Exemption--GWI Switching Services, L.P.

CMC Railroad, Inc. (CMC RR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate a railcar storage yard (the Yard) that has been operated by GWI Switching Services, L.P. (GWISS).¹ GWISS is assigning to CMC RR the operating agreement that would permit CMC RR to operate the Yard. CMC RR will access the Yard at connections with the Baytown Branch of Union Pacific Railroad Company (which the verified notice describes as a former Southern Pacific Transportation Company (SP) line) in the vicinity of Dayton, TX, at SP mileposts 2.0 and 3.3. Under the assignment by GWISS, CMC RR will also operate 10 miles of incidental trackage rights (a) from

¹ The real estate on which the Yard is located is owned by CMC Railroad I Ltd. (CMC I), which leases all improvements thereto from NCC Charlie Company, an unrelated noncarrier.

GWISS has been operating the Yard and has been operating over incidental trackage rights pursuant to the class exemption at 49 CFR 1150.31. See GWI Switching Services, L.P.--Operation Exemption--Rail Lines of Southern Pacific Transportation Company, Finance Docket No. 32481 (ICC served May 3, 1994). The continuance in control of GWISS by Genesee and Wyoming Industries, Inc., is also exempt under the class exemption. See Genesee and Wyoming Industries, Inc.--Continuance in Control Exemption--GWI Switching Services, L.P., Finance Docket No. 32482 (ICC served May 3, 1997). The Brotherhood of Locomotive Engineers and the United Transportation Union filed petitions to revoke these exemptions, which are pending before the Board. The publication of this notice of exemption does not reflect any assessment of the merits of the petitions to revoke. Should the Board decide to revoke GWISS's exemption to operate the Yard and trackage rights, this exemption of the assignment of GWISS's operating agreement to CMC RR may also be revoked.

STB Finance Docket No. 33513

Baytown Branch SP milepost 5.0 to SP milepost 0.0 (also known as Lafayette Main Line SP milepost 327.8), a distance of 5.0 miles; and (b) from Lafayette Main Line SP milepost 325.0 to SP milepost 330.0, a distance of 5.0 miles.

The transaction was expected to be consummated after November 27, 1997.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33513, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381-0796.

Decided: December 5, 1997.

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

Vernon A. Williams

Secretary

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