

37905

SERVICE DATE – APRIL 20, 2007

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35016]

Rock River Railroad, Inc.—Acquisition and Operation Exemption—Rail Lines of Renew Energy, LLC

Rock River Railroad, Inc. (RRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Renew Energy, LLC (RE), and to operate approximately 2,100 feet of rail line, located within the plant site of RE, in Jefferson, Jefferson County, WI (the line).¹

This transaction is related to the concurrently filed notice of exemption in STB Finance Docket No. 35017, Mark K. Smith—Continuance in Control Exemption—Rock River Railroad, Inc., wherein Mark K. Smith seeks to continue in control of RRR upon its becoming a Class III rail carrier.

RRR states that the line connects with Union Pacific Railroad Company at both of its termini. RRR further states that, although the line has been owned and operated by RE as private track and might otherwise be considered to be spur, industrial, or switching track exempt from the Board's acquisition and operation authority under

¹ According to RRR, the line does not have mileposts.

49 U.S.C. 10906, it constitutes a line of railroad for which an exemption from the Board is required because it is RRR's initial rail acquisition and operation.²

RRR certifies that its projected annual revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

The earliest this transaction may be consummated is the May 6, 2007 effective date of the exemption (30 days after the exemption was filed).

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 transaction. Petitions for stay must be filed no later than April 27, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35016, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle St., Suite 1890, Chicago, IL 60604-1112.

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

² See Effingham RR Co.—Pet. For Declaratory Order, 2 S.T.B. 606 (1997), aff'd sub nom., United Transp. Union v. Surface Transp. Bd., 183 F.3d 606 (7 Cir. 1999); see also Bulkmatic Railroad Corporation—Acquisition & Operation Exemption—Bulkmatic Transport Company, STB Finance Docket No. 34145 (STB served Nov. 19, 2002).

Decided: April 13, 2007.

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

Vernon A. Williams

Secretary