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SERVICE DATE – OCTOBER 17, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35857

HOUSATONIC RAILROAD COMPANY, INC. AND HOUSATONIC TRACK COMPANY,  
INC.—INTRA-CORPORATE FAMILY TRANSACTION EXEMPTION

Decided: October 16, 2014

On September 19, 2014, Housatonic Railroad Company, Inc. (HRRC), a Class III common carrier, and Housatonic Track Company, Inc. (TRACK), a Massachusetts corporation (collectively, applicants), filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) for an intra-corporate family transaction that took place in 2000. HRRC and TRACK were wholly owned subsidiaries of Housatonic Transportation Company (HTC), a noncarrier holding company. HRRC and TRACK state that they merged in 2000, under applicable state law, with HRRC as the surviving corporate entity.

According to the notice, HRRC is now preparing to sell a 36.3-mile rail line to the Commonwealth of Massachusetts Department of Transportation (MassDOT). As part of the due diligence related to this proposed sale, the 2000 merger was identified as having the potential to delay a transfer of the line to MassDOT. Applicants state that they relied on agency precedent finding that TRACK was not a common carrier when they proceeded with the 2000 merger without prior Board approval,<sup>1</sup> but that “it has been suggested that the Board might have a different view in light of modern STB practice concerning continuance in control transactions.” Applicants further state that, if the Board concurs with the applicants’ decision to forgo invoking the class exemption in 2000, then the subject filing should be dismissed.

In order for the Board to fully consider whether Board approval was necessary for the 2000 transaction, the Board will hold this proceeding in abeyance. To assist the Board in its evaluation, applicants are directed to file by November 6, 2014 either an explanation of what precedent they believe may indicate that Board approval was required or a motion to dismiss the notice with an explanation of why Board approval of the transaction was unnecessary.

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<sup>1</sup> See Housatonic R.R.—Operation Exemption—Lines of Conn. Dep’t of Transp. & Housatonic Track Co., FD 31780 (ICC served Dec. 29, 1990); Housatonic R.R.—Continuance in Control Exemption—Danbury Terminal R.R. & Housatonic R.R., FD 32163 (ICC served Oct. 5, 1993).

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

It is ordered:

1. This proceeding is held in abeyance pending further Board order.
2. Applicants are directed to file a supplemental pleading as described above by November 6, 2014.
3. This decision is effective on the date of service.

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