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SERVICE DATE – DECEMBER 17, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34615]

Patrick D. Broe and OmniTRAX, Inc.–Continuance in Control Exemption–Alabama & Tennessee River Railway, LLC

Patrick D. Broe (Mr. Broe) and OmniTRAX, Inc. (OmniTRAX), noncarriers, have filed a verified notice of exemption to continue in control of Alabama & Tennessee River Railway, LLC (ATN), upon ATN's becoming a Class III rail carrier.

The transaction is expected to be consummated on or shortly after December 31, 2004.

The transaction is related to STB Finance Docket No. 34611, Alabama & Tennessee River Railway, LLC–Lease and Operation Exemption–CSX Transportation, Inc., wherein ATN seeks to lease from CSX Transportation, Inc. (CSXT) and operate approximately 122 miles of rail lines in Alabama as follows: (1) between milepost SG 737.1 of the Belt Connecting Track at Birmingham and milepost 0AG 85.2 at Guntersville; and (2) the Ivalee Branch, between milepost 0LE 443.0 near Moragne and milepost 0LE 447.9 at Moragne.

Mr. Broe directly controls OmniTRAX that currently controls 10 Class III railroads: Chicago Rail Link, LLC (CRL), Georgia Woodlands Railroad, LLC (GWRC), Great Western Railway of Colorado, LLC (GWR), Great Western Railway of Iowa, LLC (CBGR),

Manufacturers' Junction Railway, LLC (MJ), Newburgh & South Shore Railroad Limited (NSR), Northern Ohio & Western Railway, LLC (NOW), Panhandle Northern Railroad, LLC (PNR), Alliance Terminal Railroad, LLC (ATR), and Fulton County Railway, LLC (FCR).¹ OmniTRAX also controls ATN, a Colorado Limited Liability Company formed for the purpose of leasing and operating certain rail lines owned by CSXT in the State of Alabama. Applicants state that the purpose sought to be accomplished by the proposed transaction is to reduce overhead expenses, and coordinate billing, maintenance, mechanical and personnel policies and practices of its rail carrier subsidiaries, and thereby improve the overall efficiency of rail service provided by the 11 railroads.²

Applicants state that: (i) the rail lines being leased by ATN do not connect with any of the lines of the railroads under their control or within their corporate family, (ii) the transaction is not a part of a series of anticipated transactions that would connect the rail lines being leased by ATN with any railroad in the OmniTRAX corporate family, and (iii) the transaction does not involve a Class I railroad. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

¹ CRL's and MJ's lines are located in Illinois; GWRC's line and FCR's lines are located in Georgia; GWR's lines are located in Colorado; CBGR's lines are located in Iowa; NOW's line and NSR's lines are located in Ohio; and PNR's line and ATR's lines are located in Texas.

² OmniTRAX indicates that it will soon file for authority to control a new carrier, Kettle Falls International Railway, LLC, that will be acquiring and leasing rail lines in the State of Washington.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34615, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Suite 225, 1455 F Street, N.W., Washington, DC 20005.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: December 9, 2004.

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

Vernon A. Williams

Secretary