

42252

SERVICE DATE – MARCH 30, 2012

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35390]

Affton Terminal Railroad Company—Operation Exemption¹—Affton Trucking
Company

Affton Terminal Railroad Company (ATRR), a noncarrier, has filed a verified notice of exemption² under 49 CFR 1150.31 to operate, pursuant to an agreement with Affton Trucking Company (ATC),³ approximately 2.0 miles of railroad right-of-way and trackage and transloading facilities in St. Louis, Mo. (the Line).

According to ATRR, there are no mileposts associated with the trackage, which is located at ATC's transloading facility in St. Louis. ATRR states that the trackage is used in conjunction with interchanging outbound carloads of grains and related products as well as plastic pellets and related products with the Terminal Railroad Association of

¹ This proceeding originally was captioned as an “acquisition” exemption, but the described transaction, as clarified, involves only an operating agreement. The proceeding has been re-captioned accordingly.

² ATRR initially filed its verified notice of exemption on November 25, 2011. On December 16, 2011, ATRR filed a request that its notice of exemption be held in abeyance until further notice, which the Board granted by decision served on December 20, 2011. ATRR filed an amended verified notice on March 2, 2012, and a letter supplementing and clarifying its amended verified notice on March 20, 2012.

³ A copy of the operating agreement was submitted with the notice of exemption. See Anthony Macrie—Continuance in Control Exemption—N.J. Seashore Lines, Inc., FD 35296, slip op. at 3-4 (STB served Aug. 31, 2010).

St. Louis and BNSF Railway Company and inbound carloads for transloading into trucks for final delivery. ATRR also states that there are plans to phase in additional trackage that ATRR will operate.

ATRR asserts that because the trackage in question will constitute the entire line of railroad of ATRR, this trackage is a line of railroad under 49 U.S.C. 10901, rather than spur, switching or side tracks excepted from Board operation authority by virtue of 49 U.S.C. 10906.⁴

The transaction may not be consummated until April 19, 2012 (30 days after the notice of exemption was filed).⁵

ATRR certifies that its projected annual revenues as a result of this transaction will not exceed levels that will qualify it as a Class III rail carrier.

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 exemption. Petitions to stay must be filed no later than April 12, 2012 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35390, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington,

⁴ See Effingham R.R.—Pet. for Declaratory Order—Constr. at Effingham, IL, NOR 41986 et al. (STB served Sept. 18, 1998), aff'd sub nom. United Transp. Union-III. Legislative Bd. v. STB, 183 F.3d 606 (7th Cir. 1999).

⁵ ATRR's verified notice of exemption is deemed to have been filed on March 20, 2012, the date ATRR filed its latest supplement.

DC 20423-0001. In addition, a copy of each pleading must be served on David C.

Dillon, Dillon & Nash, Ltd., Suite 719, 111 West Washington Street, Chicago, IL 60602.

Board decisions and notices are available on our website at

“WWW.STB.DOT.GOV.”

Decided: March 27, 2012.

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