

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35042

U S RAIL CORPORATION—LEASE AND OPERATION EXEMPTION—SHANNON  
G., A NEW JERSEY LIMITED LIABILITY COMPANY

Decided: August 3, 2007

On June 6, 2007, U S Rail Corporation (U S Rail), a Class III rail carrier,<sup>1</sup> filed a verified notice of exemption under 49 CFR 1150.41 to lease from Shannon G. (SG), a New Jersey limited liability company and noncarrier, approximately 1,400 feet of track that U S Rail states SG is currently constructing in Paterson, NJ, and to operate over it. As a result of this transaction, U S Rail states that it will provide exclusive common carrier rail freight service over the trackage serving a transload terminal owned by SG.<sup>2</sup>

In a decision served June 15, 2007, the Board held that it would not allow U S Rail's exemption to become effective until further notice and that the applicant must provide additional information. The Board noted that the track which SG is constructing might be a line of railroad under the agency's jurisdiction and that the construction of such a line requires Board approval. The Board directed U S Rail to file a supplement to explain its claim that the track is not subject to the Board's jurisdiction because it is a private line. The Board ordered that U S Rail file its supplement by July 5, 2007. U S Rail filed its supplement on July 3, 2007.

While the record developed, the City of Paterson (City) filed a notice of intent to participate in the proceeding on June 26, 2007. The City explained that, on April 25, 2007, it began eminent domain proceedings on the property upon which the

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<sup>1</sup> The carrier currently provides common carrier rail freight service as Great Miami & Scioto Railway on various lines in southern Ohio. See The Great Miami & Scioto Railway Company—Change in Operator Exemption—Certain Lines of the City of Jackson, OH, Finance Docket No. 32417 (ICC served Jan. 20, 1994). However, the carrier is in the process of changing its name to U S Rail.

<sup>2</sup> U S Rail claims that it will interchange traffic with The New York, Susquehanna and Western Railway Company (NYS&W). On June 11, 2007, NYS&W submitted a filing in which it explains that it has not entered into an interchange or switching agreement with U S Rail, and that it currently has no rail connection with SG's facility. NYS&W further stated that, should the exemption become effective, it would be prepared to negotiate arrangements to provide service to the facility.

track in question is to be located. The City stated that it would file a reply in opposition to U S Rail's notice, and it filed its reply on July 26, 2007.

On July 30, 2007, U S Rail filed a petition asking that it be allowed to file a reply on August 17, 2007. U S Rail argues that the City's reply is, in essence, a petition to reject its notice and that a reply from the applicant is thus proper. U S Rail is correct. The railroad asks that its reply be due on August 17, 2 days later than the normal reply due date,<sup>3</sup> to accommodate its counsel's previously scheduled activities. U S Rail's extension request is reasonable and will be granted. Accordingly, U S Rail's reply will be due on August 17, 2007.

It is ordered:

1. U S Rail's petition is granted, and its reply is due on or before August 17, 2007.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary

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<sup>3</sup> See 49 CFR 1104.13(a).