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September 21, 2012

By e-filing

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Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

ENTERED
Office of Proceedings
September 21, 2012
Part of
Public Record

Re: Finance Docket No. 35656, *Progressive Rail Incorporated -- Acquisition and Operation Exemption -- Rail Lines of Crab Orchard & Egyptian Railroad Company in Williamson County, IL*

Dear Ms. Brown:

Please refer to the Notice of Exemption in the above proceeding served on September 21, 2012.

It is respectfully submitted that the Notice is in error in stating that the exemption cannot become effective until November 4, 2012, 60 days after PGR submitted its certification of posting of an employment notice at the workplace of the rail carrier whose rail lines are being acquired (Notice at 2).

As provided in 49 C.F.R. § 1150.42(e), the 60-day period runs from posting of the notice in the workplace, not from the date of certification of such posting (“...applicant must, at least 60 days before the exemption becomes effective, post a notice...”). Certification to the Board of such posting can occur long after the employment notice is posted.

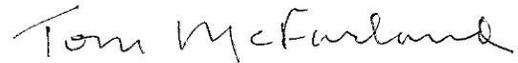
The employment notice in the present case was posted on August 6. That posting triggered a 60-day period before the Notice of Exemption could become effective (i.e., not before October 5). The Notice of Exemption was filed on September 6 so that it would become effective on that same day (October 5) in light of the 30-day period before the exemption could become effective. The latter date was extended to October 7 because of informational deficiencies in the Notice of Exemption. That date -- October 7 -- is the date on which the exemption should become effective for acquisition and operation of the rail line.

This communication should be treated as an appeal under 49 C.F.R. § 1011.2(a)(7) of the

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initial decision of the Director of the Office of Proceedings directed solely to the Director's determination of the effective date of the exemption for acquisition and operation of the rail line.

Very truly yours,



Thomas F. McFarland
Attorney for Progressive Rail, Incorporated

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