



655 Fifteenth Street, NW, Suite 225
Washington, DC 20005

balljanik.com

t 202.638.3307
f 202.783.6947

236690

ENTERED
Office of Proceedings
September 17, 2014
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Public Record

September 17, 2014

Karl Morell
Of Counsel
kmorell@balljanik.com

E-FILED

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: Finance Docket No. 35733, Midwest Railroad Company –
Lease Exemption – Chicago Rail Link, L.L.C.

Dear Ms. Brown:

Attached for filing with the Board please find the Motion To Reject
Notice of Exemption submitted on behalf of Chicago Rail Link, L.L.C.

Sincerely,

Karl Morell
Of Counsel

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35733

MIDWEST RAILROAD COMPANY
--LEASE EXEMPTION--
CHICAGO RAIL LINK, L.L.C.

MOTION TO REJECT NOTICE OF EXEMPTION

KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorney for:
CHICAGO RAIL LINK, L.L.C.

Dated: September 17, 2014

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35733

MIDWEST RAILROAD COMPANY
--LEASE EXEMPTION--
CHICAGO RAIL LINK, L.L.C.

MOTION TO REJECT NOTICE OF EXEMPTION

Chicago Rail Link, L.L.C. ("CRL"), a Class III rail carrier, hereby files this Motion to Reject the Notice of Exemption filed by Midwest Railroad Company ("Midwest") with the Surface Transportation Board ("Board") on September 11, 2014 ("September Notice").

On August 13, 2014, Midwest filed a notice of exemption with the Board under 49 U.S.C. § 10902 and 49 C.F.R. § 1150.31.¹ In the August notice, Midwest stated that it was a non-carrier and that it was leasing 2,000 feet of track from CRL. While there were numerous errors and omissions in the August notice there is no reason to recite them here since on August 26, 2014, Midwest withdrew its notice, claiming that it intended to file a petition for exemption.

Rather than file a petition for exemption, Midwest, on September 11, 2014, once again filed a notice of exemption under 49 U.S.C. § 10902 and 49 C.F.R. § 1150.41. Midwest, however, now claims that it is a Class III rail carrier. CRL has been unable to locate any Board

¹ Section 1150.31, of course, applies to transactions under Section 10901 and not Section 10902.

docket where Midwest became a rail carrier subject to the jurisdiction of the Board and Midwest neglects to cite to such a docket. Midwest seeks an exemption under 49 U.S.C. § 10901 even though that section applies to non-carriers and not Class III rail carriers.

Once again there are numerous errors and omissions in the September Notice but CRL will limit its discussion to the most serious. A review of Midwest's business plan demonstrates that the services Midwest plans to provide are not subject to the jurisdiction of the Board. Also, Midwest conveniently fails to inform the Board about the nature of the Track Lease Agreement ("Lease Agreement") entered into by CRL and Midwest on September 1, 2013. Section 4.1 of the Lease Agreement expressly provides that Midwest shall use the track "for the purpose of switching and storing empty passenger cars and for no other purpose whatsoever."

Consequently, Midwest may not use CRL's tracks to perform common carrier freight rail services.

More importantly, on September 11, 2014, CRL terminated the Lease Agreement because Midwest owed CRL \$60,969.68 in unpaid rental fees, transportation charges and interest. *See* Exhibit 1. Pursuant to Section 18 of the Lease Agreement the termination was effective on September 11th.

CRL seeks to have the September Notice rejected because Midwest may attempt to use the good offices of the Board to delay or thwart CRL's efforts to remove Midwest from the CRL tracks. If the Board allows the September Notice to become effective, Midwest may argue that it has Board sanctioned authority to remain on the CRL tracks until such time as CRL seeks and obtains adverse discontinuance authority from the Board.

Respectfully submitted,

A handwritten signature in cursive script that reads "Karl Morell". The signature is written in black ink and is positioned above a horizontal line.

KARL MORELL

Of Counsel

BALL JANIK LLP

Suite 225

655 Fifteenth Street, N.W.

Washington, DC 20005

(202) 638-3307

Attorney for:

CHICAGO RAIL LINE, L.L.C.

Dated: September 17, 2014

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September, 2014, I caused a copy of the foregoing Motion to be served by first class mail, postage prepaid on all parties of record in this proceeding.

Karl Morell

Karl Morell



252 Clayton Street

Denver, Co 80206

September 11, 2014

Midwest Railroad Company

James Bradley

12217 S Cicero Ave

Alsip, IL 60803

RE: Termination of Agreement 407074 Track Lease Midwest Railroad and Chicago Rail Link, LLC

Dear James,

Chicago Rail Link, L.L.C. ("CRL") and Midwest Railroad Company ("Midwest") are parties to a Track Lease Agreement dated September 1, 2013, identified as LandRail Agreement No. 407074 (the "Agreement"). Midwest currently owes CRL \$60,969.68 in unpaid rental fees, transportation charges and interest (see attached account statement). Midwest is in default of its obligations under the Agreement. Therefore, this letter constitutes formal, written notice that CRL is terminating the Agreement immediately in accordance with the terms and conditions of Section 18 of the Agreement. You have twenty (20) days from today to remove any property from the "Track" as defined in the Agreement. If you have any questions please don't hesitate to contact me directly.

Cordially,

A handwritten signature in blue ink, appearing to read "Adam Hess".

Adam Hess

Director of Real Estate

252 Clayton Street

Denver, CO 80206