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SERVICE DATE – APRIL 13, 2018
SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35478

ROCKY MOUNTAIN RAILCAR AND REPAIR, INC.—ACQUISITION AND OPERATION
EXEMPTION—LINE OF RAILROAD IN TOOELE COUNTY, UTAH

Decided: April 12, 2018

Rocky Mountain Railcar and Repair, Inc. (Rocky Mountain), a noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Utah Industrial Depot (UID) and operate 11.5 miles of rail line located inside an existing industrial facility in Tooele County, Utah. The rail line includes spur that connects to the Union Pacific Railroad Company rail line. Notice of the exemption was served and published in the Federal Register on April 15, 2011 (76 Fed. Reg. 21,425). According to Rocky Mountain, the transaction was expected to be consummated approximately six months after the filing date of its notice.¹

On March 1, 2018, Rocky Mountain filed a letter requesting to “revoke the exemption granted” and “terminate [Rocky Mountain’s] designation as a Class III rail carrier.”² In a March 9, 2018 supplemental filing, Rocky Mountain states that “[t]he purchase was never consummated between [Rocky Mountain] and UID.” According to Rocky Mountain, it has not operated as a common carrier and will not operate as a common carrier in the future. (Rocky Mountain Letter, Mar. 1, 2018.) No replies were filed in response to Rocky Mountain’s letter.

Although the exemption became effective May 1, 2011, the authority conferred to Rocky Mountain is permissive only, and a filer may choose whether or not to consummate that authority. See Jackson Cty. Port Auth.—Pet. For Declaratory Order, FD 35994, slip op. at 2 (STB served July 28, 2016); Port of Ivory, LLC—Operation Exemption—Line of R.R. in Tulare Cty., Cal., FD 35475, slip op. at 2 (STB served June 27, 2011). The record indicates that Rocky Mountain never acquired the line at issue (or any other rail line) and has never operated as a common carrier. Accordingly, Rocky Mountain’s request to withdraw its notice of exemption is reasonable and will be granted. See Jackson Cty. Port Auth., FD 35994, slip op. at 2; Port of Ivory, FD 35475, slip op. at 2.

¹ The effective date of the exemption was May 1, 2011 (30 days after the verified notice was filed).

² Although Rocky Mountain styled its letter as requesting revocation of the exemption, Rocky Mountain appears to be seeking leave to withdraw its notice of exemption.

It is ordered:

1. Rocky Mountain's request to withdraw its verified notice of exemption is granted, and this proceeding is dismissed without prejudice.
2. The notice served and published in the Federal Register on April 15, 2011, is vacated.
3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.