

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35970

TOLEDO, LAKE ERIE & WESTERN RAILWAY AND MUSEUM, INC.—
OPERATION EXEMPTION

Decided: April 23, 2018

On October 23, 2015, Toledo, Lake Erie & Western Railway And Museum, Inc. (Toledo), filed a verified notice of exemption under 49 C.F.R. § 1150.31 to operate a 10-mile rail line between a point of connection with Norfolk Southern Railway Company's (NSR) trackage at milepost 15 in Waterville, Ohio, and the end of the line at milepost 25 in Grand Rapids, Ohio (the Line). Toledo stated that Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway (TLEW) had ceased providing service and that Toledo sought to operate as a common carrier over the Line.¹

In 2015, the Board held this proceeding in abeyance and directed Toledo to file supplemental information. Toledo, Lake Erie & W. Ry. & Museum—Operation Exemption, FD 35970, slip op. at 1 (STB served Nov. 19, 2015). The decision explained that, earlier that year, NSR and TLEW obtained authority to discontinue service over an NSR line segment between milepost TS 13.2 near Maumee, Ohio, and milepost TS 15 at Waterville (Maumee Segment), which appeared to be the Line's only connection to the interstate rail network. See id., slip op. at 1. Therefore, the Board requested information regarding how Toledo would interchange traffic or reach the interstate rail network to provide common carrier service and invited NSR to comment. Id.

On December 3, 2015, NSR commented that the Maumee Segment was the Line's only connection to the interstate rail network and asserted that it would be inappropriate to permit Toledo's exemption to take effect at that time. On December 7, 2015, Toledo asked the Board to continue to hold the proceeding in abeyance, as it was attempting to establish commercial arrangements for the interchange of traffic with NSR. By decision served on December 23, 2015, that request was granted.

¹ Toledo, which owns the Line as a noncarrier, stated that service had been provided under a lease by TLEW, authorized by the Board in Midwest Rail—Lease & Operation Exemption—Toledo, Lake Erie & Western Railway & Museum, Inc., FD 35555 (STB served Oct. 14, 2011).

In response to a March 23, 2018 order directing Toledo to file a status update, Toledo filed a letter on April 6, 2018, stating that it does not intend to pursue the transaction and requesting that the Board dismiss its filings.

Toledo's request is reasonable, as the exemption has not become effective and Toledo has requested that its filings be dismissed because it no longer intends to proceed with the transaction. Toledo therefore will be permitted to withdraw its verified notice, and the proceeding will be closed.

It is ordered:

1. Toledo's verified notice of exemption is withdrawn, and this proceeding is closed.
2. This decision is effective on its service date.

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