



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1262X]

Alliance Terminal Railroad, LLC—Discontinuance of Service and Discontinuance of Trackage Rights Exemption—in Denton and Tarrant Counties, Tex.

Alliance Terminal Railroad, LLC (ATR) has filed a verified notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service and trackage rights over approximately 23.9 miles of rail line in Denton and Tarrant Counties, Tex. (the Line). Specifically, ATR is seeking to discontinue (a) service over approximately 12.9 miles of subleased track that is owned by BNSF Railway Company (BNSF) and was previously leased to Quality Terminal Services LLC, a non-carrier corporate affiliate of ATR, in Haslet, Tex.,¹ and (b) an additional 11 miles of incidental, overhead trackage rights over BNSF Main Line #2 in Haslet and Saginaw, Tex., splitting from BNSF Main Line #1 at milepost 359.0 and rejoining BNSF Main Line #1 at milepost 370.0. The Line traverses United States Postal Service Zip Codes 76052 and 76247.

ATR has certified that: (1) it has handled no local or overhead traffic over the Line for at least two years; (2) any overhead traffic on the Line can be rerouted over other lines; (3) no formal complaint filed by a user of a rail service on the Line (or by a state or

¹ ATR states that the subleased track lies adjacent to BNSF Main Line #2 and that there are no mileposts associated with the subleased track or BNSF Main Line #2. ATR further states that the subleased track lies approximately between milepost 362.2 and milepost 365.0 on BNSF Main Line #1.

local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

The verified notice states that the Line “constitutes the entirety of ATR’s past operations.” Where, as here, the carrier is discontinuing service over its entire system, the Board does not normally impose labor protection under 49 U.S.C. 10502(g), unless the evidence indicates the existence of: (1) a corporate affiliate that will continue substantially similar rail operations; or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. See Honey Creek R.R.—Aban. Exemption—in Henry Cty., Ind., AB 865X (STB served Aug. 20, 2004); Wellsville, Addison & Galetton R.R.—Aban., 354 I.C.C. 744 (1978); and Northampton & Bath R.R.—Aban., 354 I.C.C. 784 (1978). According to ATR, after discontinuance no corporate affiliate of ATR will continue similar operations, nor will ATR’s parent company realize substantial financial benefits over and above relief from a common carrier obligation over a line that ATR has not operated over in more than two years. Therefore, employee protection conditions will not be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)² to subsidize continued rail service has been received, this exemption will be effective May 23, 2018,³ unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)⁴ must be filed by May 3, 2018.⁵ Petitions for reconsideration must be filed by May 14, 2018, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with Board should be sent to ATR's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

² The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly available information. See Offers of Financial Assistance, EP 729 (STB served June 29, 2017); 82 Fed. Reg. 30,997 (July 5, 2017).

³ ATR initially filed its verified notice of exemption on March 12, 2018. ATR supplemented its notice on March 22, 2018 and April 3, 2018. Therefore, April 3 will be considered the official filing date.

⁴ Each OFA must be accompanied by the filing fee, which currently is set at \$1,800. See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update, EP 542 (Sub-No. 25) (STB served July 28, 2017).

⁵ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

Board decisions and notices are available on our website at “WWW.STB.GOV.”

Decided: April 18, 2018.

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

Jeffrey Herzig

Clearance Clerk

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