DEPARTMENT OF TRANSPORTATION
Surface Transportation Board

[STB Finance Docket No. 35109]

Arizona Eastern Railway, Inc.— Acquisition and Operation Exemption— Union Pacific Railroad Company

Arizona Eastern Railway, Inc. (AZER), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Union Pacific Railroad Company (UP) and operate a 67.7-mile line of railroad known as the Clifton Subdivision, extending between milepost 1150.00 at Lordsburg, NM, and milepost 1217.70 at Clifton, AZ.¹

The transaction is expected to be consummated on or after February 1, 2008.

AZER certifies that its projected annual revenues as a result of the transaction will not result in AZER becoming a Class II or Class I rail carrier. However, because its projected annual revenues will exceed $5 million, AZER also has certified to the Board on December 3, 2007, that it has complied with the employee notice requirements of 49 CFR 1150.42(e). Pursuant to that provision, the exemption may not become effective until 60 days from the date of certification to the Board, which would be February 1, 2008.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by January 25, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35109, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, John D. Heffner, PLLC, 1750 K Street, NW., Suite 350, Washington, DC 20006.

Board decisions and notices are available on our Web site at http://www.stb.dot.gov.


¹ By letter dated November 29, 2007, BP Rail Corporation D/B/A BP Rail (BPR) advised the Board of its intent to file an offer of financial assistance (OFA) to purchase the 4.50-mile line proposed for abandonment. In the November 29 letter, BPR also requested that NSR provide certain information regarding the line, including the required minimum purchase price. BPR also requested that the Board toll the 30-day period for submitting OFAs for an additional 60 days in order to provide the offeror with an adequate opportunity to review, analyze and make the material provided by NSR and submit its OFA. These requests will be handled in a separate decision.

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board’s Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before its effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption’s effective date.

³ Each OFA must be accompanied by the filing fee, which currently is set at $1,300. See 49 CFR 1002.2(f)(25).