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SERVICE DATE – MARCH 28, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36548

JAMES RIFFIN—ACQUISITION AND OPERATION EXEMPTION—
IN YORK COUNTY, PA.

Digest:[1] The Board grants James Riffin's motion to withdraw one rail line segment and a portion of another segment from a previously filed notice of exemption to operate and acquire two rail line segments. The Board also denies his petition to reconsider the Board's rejection of the notice of exemption as to a third rail line segment.

Decided: March 28, 2023

On April 22, 2022, the Board rejected a verified notice of exemption filed by James Riffin (Riffin) seeking authority under 49 C.F.R. § 1150.31 to acquire and operate two rail lines located in York County, Pa. Riffin—Acquis. & Operation Exemption—in York Cnty., Pa. (Apr. 2022 Decision), FD 36548, slip op. at 6-7 (STB served Apr. 21, 2022). The Board rejected the verified notice because it found that there were significant questions about the transactions under which Riffin sought, or was seeking, to acquire these rail lines. On May 11, 2022, Riffin filed a motion to amend his verified notice to remove all but 0.53 miles of the rail lines for which he was seeking acquisition and operating authority. That same day, Riffin filed a petition for reconsideration arguing that the Board should permit the amended verified notice for the remaining rail line segment to become effective.

BACKGROUND

The Notice of Exemption. Riffin's original verified notice sought authority to acquire and operate what he described as two rail lines: first, an approximately 5.53-mile segment between milepost 7.53 and milepost 2.0, in Hellam Township, Pa. (York Branch); and second, an approximately 180-foot segment between milepost 0.034 and milepost 0.0 in New Freedom, Pa. (Stewartstown Railroad Segment). In his motion to amend, Riffin seeks to modify the verified notice so that it now covers only the portion of the York Branch from milepost 7.53 to

[1] The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

milepost 7.0.[2] Accordingly, Riffin seeks reconsideration of the Board's rejection of his notice for only that 0.53-mile segment.

In the verified notice, Riffin claimed that this segment was part of an active rail line—from milepost 12.8 to milepost 7.0—that was transferred to Conrail in 1976 as part of the Final System Plan (FSP). (Verified Notice, App. paras. 2, 26.) He claimed that the line was then transferred to Pennsylvania Lines LLC (Pennsylvania Lines), a Norfolk Southern Railway Company (NSR) subsidiary, as part of the sale of Conrail to NSR and CSX Corporation,[3] and that Pennsylvania Lines was eventually merged into NSR in 2004. (Id. paras. 11, 12.) He further asserted that NSR has since leased the portion of the line from milepost 12.31 to milepost 7.50 to East Penn Railroad LLC (ESPN), pursuant to authority issued in East Penn Railroad—Lease & Operation Exemption—Norfolk Southern Railway, FD 35533 (STB served July 15, 2011).[4] (Verified Notice, App. para. 13.) However, Riffin claimed that he acquired the portion of the line from milepost 7.53 to milepost 7.0 through a quiet title action against Pennsylvania Lines in the York County Court of Common Pleas on August 9, 2021. (Id. paras. 18, 19.) He attached a copy of the court's consent order to the verified notice.[5]

The court's consent order states that Riffin owns the railroad right-of-way that "lies Easterly of the Western boundary line of the Campbell Road right-of-way." (Id.) In the verified notice, Riffin claims that the western boundary of Campbell Road is located at milepost 7.53, (id. para. 9). As such, he claims that milepost 7.0 is somewhere to the east of Campbell Road and, because the court order states that Riffin owns the right-of-way to the east of Campbell Road, he has acquired the segment from milepost 7.53 to milepost 7.0. (Id. paras. 28, 29.)

The Board's Rejection of the Notice. In its decision rejecting the verified notice, the Board explained that a search of its records had revealed that the segment of the York Branch from milepost 7.0 at Hellam to milepost 1.2 may have been abandoned in 1967 in Docket No. FD 24738. The Board also found Riffin's assertion that he acquired the segment from milepost 7.53 to milepost 7.0 to be questionable. Specifically, the Board found that Riffin's claim that milepost 7.53 is located at the western edge of Campbell Road was based solely on a valuation map, a copy of which he did not provide. Apr. 2022 Decision, FD 36548, slip op. at 4. Moreover, the Board noted that, by Riffin's own admission, a 1976 deed conveying the line to

[2] The Board will treat Riffin's motion to amend as a motion to withdraw from the notice the segment of the York Branch from milepost 2.0 to 7.0 and the Stewartstown Railroad segment. The motion will be granted.

[3] CSX Corp.—Control & Operating Leases/Agreements—Conrail, Inc., 3 S.T.B. 196 (1998).

[4] That decision states that the line is called the York Industrial track. The decision also authorized the lease from NSR to ESPN of the segment from mileposts 12.31 to 12.70, which the parties in that case referred to as a "wye track."

[5] According to the caption of the court order, the quiet title action was filed against Pennsylvania Lines LLC and Norfolk Southern Corporation. (See Verified Notice, App., Attach.)

Conrail indicated that this spot in fact corresponded to milepost 7.0 (rather than milepost 7.53). (Id. (citing Verified Notice, App. paras. 7-8).) Specifically, Riffin stated as follows:

> 7. The 'cut line' was described as follows:
>
> "Being a line drawn at right angles to the centerline of railroad right-of-way at Station 370+00, more or less, and **along the westerly line of Campbell road** ... ." Bold added.
>
> 8. *The notation '370+00' refers to the number of feet from the beginning point. '370+00' means: 37,000 feet from the beginning point, which equates to 7.00 miles*. Which would be at 'MP 7.0.' Which corresponds to the 'cut point' noted in the Final System Plan for the York Branch.

(Verified Notice, App. paras. 7-8) (second emphasis added).

The Board thus stated that, "[g]iven the basis upon which Riffin is claiming to have acquired this segment—a discrepancy between a map and a deed—his attestation that there is an agreement for him to acquire this segment is questionable at best." Apr. 2022 Decision, FD 36548, slip op. at 5. The Board also noted that it was difficult to assess Riffin's claims without supporting documentation, including the 1976 deed and the valuation map, and possibly further clarification of the circumstances and meaning of the York County Court of Common Pleas' 2021 consent order (including whether the court understood the western edge of Campbell Road to be at milepost 7.53 or milepost 7.0). Id. The Board went on to note that, under Riffin's assertions, he technically now owned a small segment of rail line that NSR had been leasing to ESPN. Id. But Riffin had provided no evidence that there was a lease agreement between himself and ESPN for this short segment, or that NSR and ESPN were even aware of Riffin's ownership claims. Id.

Based on the information provided, the Board rejected Riffin's notice. First, the Board stated that it was unclear if any of the segments in question were actually rail lines for which acquisition authority would be necessary. Apr. 2022 Decision, FD 36548, slip op. at 6. Second, the Board held that even if these were rail lines, there were significant questions about whether there was an "agreement" for Riffin to acquire them. Id. In particular, the Board noted that Riffin had merely acquired the property underlying the lines, but there was no indication that the prior owners of the lines had themselves agreed to convey the lines to Riffin, as it was unclear whether these carriers even understood that there could be segments of Board-regulated rail line remaining on the properties at issue. Id. Lastly, the Board held that, even if it were to assume that the requirements for an acquisition notice of exemption had technically been met, the alleged transaction raised issues that required a more detailed examination and, as such, it did not qualify for a class exemption. Id. Specifically, the Board noted that the way Riffin had supposedly acquired the property was not the type of routine or non-controversial action for which the class exemption approval process had been designed. Id. The Board also ordered that, in any subsequent filings on this matter, Riffin would be required to serve a copy on the carriers whose lines he claims to be acquiring. Id. at 7.

The Petition for Reconsideration. In his petition for consideration, Riffin argues that rejection of his verified notice was improper because there is no regulation requiring that an applicant file the underlying agreement, a map showing where the mileposts of the line are physically located, or the deed by which the conveying carrier acquired its title to the line segment. (Pet. 4.) He claims that the Board's rejection of the verified notice was "arbitrary, capricious, or unreasonable" and that his due process rights were violated because the Board did not first provide him an opportunity to present additional documentation and clarification. (Id.) Riffin also argues that there is no requirement to serve a copy of the verified notice on the conveying carrier. (Id.) In any event, Riffin states that he served a copy of his petition for reconsideration, as well as the original verified notice, on Pennsylvania Lines, NSR, and ESPN. (Id. at 5.) Riffin also states that the state court's order in the quiet title action "is the entirety" of his "agreement" to acquire the line and argues that the order "gives 'sufficient detail'" as to the rights NSR is relinquishing. (Id.) Riffin attaches to his petition a copy of the 1976 deed. He also attaches a map from ESPN's 2011 notice of exemption that, he says, corroborates his contention that the western edge of Campbell Road is located at milepost 7.53. (Id. at 7.)

The Supplement. On May 24, 2022, Riffin filed a supplement to his petition for reconsideration. In the supplement, Riffin states that he physically visited the area where the line in question is located and claims that he located markers for mileposts 8.0 and 9.0. He notes that at milepost 8.0, there were two markers—one for the existing railroad and another for the old Pennsylvania Railroad. (Suppl. 2.) He provides a copy of a road map and has indicated the spots where he claims the milepost markers are located. Riffin claims that, although he could not locate a marker for milepost 7.0, the scale of the map shows that it would be located about 2,500 feet east of Campbell Road (in relation to mileposts 8.0 and 9.0). (Id. at 3-4.)

DISCUSSION AND CONCLUSION

A party may seek to have the Board reconsider a decision by submitting a timely petition demonstrating material error in the prior decision or identifying new evidence or substantially changed circumstances that would materially affect the case. See 49 U.S.C. § 1322(c); 49 C.F.R. § 1115.3. In a petition alleging material error, a party must do more than simply make a general allegation; it must substantiate its claim of material error. See Canadian Pac. Ry.—Control—Dakota, Minn. & E. R.R., FD 35081, slip op. at 4 (STB served May 7, 2009). Moreover, no matter the claimed basis for reconsideration (new evidence, changed circumstances, or material error), the alleged grounds must be sufficient to convince the Board that its prior decision would be materially affected in order for reconsideration to be granted. See Montezuma Grain Co. v. STB, 339 F.3d 535, 541-42 (7th Cir. 2003); see also 49 C.F.R. § 1115.3.

As an initial matter, Riffin does not state the statutory reconsideration criterion upon which he is basing his petition. Instead, he argues that (1) "there is NO requirement" to (a) include copies of certain documents with his verified notice or (b) serve a copy of the verified notice on the conveying carrier or any other affected entity, and (2) that "it is 'arbitrary, capricious, or unreasonable,' and violates Riffin's Due Process Rights" for the Board to reject the notice without informing him that the Board "desire[d]" additional information and allowing

him an opportunity to respond. (Pet. 4.) Riffin's arguments will be construed as claims of material error.[6]

For the reasons explained below, Riffin has failed to show that the Board committed material error in rejecting Riffin's notice in the April 2022 Decision.

The Board did not impose a new per se requirement that certain documents be filed. Riffin claims that the Board improperly rejected the notice for failing to include copies of the underlying agreement, the valuation map, and the 1976 deed conveying the York Branch to Conrail, even though such documents are not automatically required by the Board's regulations. (Pet. 4.) However, the Board did not reject the notice because certain documents were missing or assert that those documents are required per se. Rather, the Board rejected the notice because there was not a sufficient record for the Board to conclude that the transaction for which Riffin sought authority required Board approval (i.e., contained an active rail line) or, if it did concern an active rail line, that Riffin met the requirements to obtain that approval through the class exemption process (i.e., an agreement with the carrier to acquire a rail line via a routine, non-controversial transaction that did not require more scrutiny by the Board).

As the Board explained in the April 2022 Decision, the notice-of-exemption process is an expedited means of obtaining Board authorization in certain classes of transactions, as defined by the Board's regulations, that ordinarily require minimal regulatory scrutiny. Apr. 2022 Decision, FD 36548, slip op. at 1 (citing Class Exemption for the Acquis. & Operation of Rail Lines Under 49 U.S.C. 10901, 1 I.C.C.2d 810, 811 (1985) (class exemption is "designed to meet the need for expeditious handling of a large number of requests that are rarely opposed")). Although the information that the applicant must present in a class exemption is minimal, in proceedings where the circumstances are less routine, the minimal amount of evidence may not be sufficient for the Board to accept the notice.[7] As Riffin is aware, applicants that seek authority for non-routine transactions under the class exemption process run the risk that the Board may find that the transaction is not appropriate for approval because of the need for more evidence. See Riffin—Acquis. & Operation Exemption—in York Cnty., Pa., FD 34501 et al., slip op. at 6 (STB served Feb. 23, 2005) ("[T]he class exemption process is not appropriate for controversial cases in which a more detailed record is required than what is produced through a notice invoking a class exemption."); Riffin—Acquis. & Operation Exemption—in Rio Grande & Min. Cntys., Colo., FD 35705, slip op. at 2 (STB served Jan. 11, 2013) ("In cases that require information beyond that provided through simplified notice procedures, or that are controversial, the Board has rejected notices of exemption."); Riffin—Acquis. & Operation Exemption—Veneer Spur—in Balt. Cnty., Md., FD 35236, slip op. at 2 (STB served Apr. 28, 2009) ("Because this notice of

[6] Riffin rightfully does not argue that any of the additional information he provided with his petition constitutes new evidence, as all of it appears to be information that was available to him at the time of his initial filing. See, e.g., Canadian Nat'l Ry.—Control—EJ&E W. Co., FD 35087, slip op. at 5 (STB served Aug. 30, 2019).

[7] See Saratoga & N. Creek Ry.—Operation Exemption—Tahawus Line, FD 35559, slip op. at 6 (May 14, 2021) ("Each transaction requires the Director to make a fact-specific determination based on the evidence available in the record."). Although the April 2022 Decision was a Board decision, not a Director's order, the same principle applies.

exemption is controversial and raises important issues that require more scrutiny and the development of a more complete record, it will be rejected.").

In the April 2022 Decision, the Board explained that the circumstances under which Riffin sought authority to acquire the segments at issue (including the segment of the York Branch from milepost 7.0 to milepost 7.53) were far different than the routine types of transactions for which the class exemption process is ordinarily used. Riffin's notice raised questions concerning the status of the rail lines at issue and the circumstances surrounding Riffin's alleged acquisitions. Despite these non-routine circumstances, Riffin nonetheless sought approval through the class exemption process. As such, it was incumbent on Riffin to provide sufficient evidence to demonstrate that the transaction still satisfied the criteria for the class exemption.[8] For the reasons discussed in the April 2022 Decision and re-affirmed here, the Board correctly concluded that he failed to do so.

In reaching this conclusion, the Board noted that Riffin failed to provide copies of the underlying agreement, the valuation map, and the 1976 deed conveying the York Branch to Conrail, even though he was ostensibly relying on those documents to support his use of the class exemption. But the Board was not indicating that Riffin was *required* to provide these materials for his notice to be accepted. Rather, the Board mentioned these materials as documents that, in this proceeding, might have provided additional context and support to show that the segment remained an active rail line, that an agreement for Riffin to acquire it existed, and that the circumstances of this transaction were routine and non-controversial. In other words, the Board was explaining that, had Riffin provided these materials, it is possible that the record could have better enabled the Board to determine whether the transaction in fact qualified for the class exemption. There is therefore no basis to conclude that the Board erroneously imposed new document-filing requirements on Riffin.

The Board did not improperly deny Riffin the chance to provide additional documentation and explanation. Riffin is also incorrect in alleging that the Board erred by rejecting his notice of exemption before affording him an opportunity to present the additional documentation and information he now includes with his petition. (Pet. 4.) When a notice raises issues of concern, the Board may, in its discretion, hold the proceeding in abeyance to allow the applicant an opportunity to provide an explanation through the filing of supplemental

[8] This is particularly true in Riffin's case because, as noted in the April 2022 Decision, the Board applies a closer degree of scrutiny to his filings due to his prior acts of bad faith and unprofessional conduct before the agency. Apr. 2022 Decision, FD 36548, slip op. at 6 (citing Norfolk S. Ry.—Aban. Exemption—in Norfolk & Va. Beach, Va., AB 290 (Sub-No. 293X) (STB served Nov. 6, 2007) (concluding, based on strong evidence that Riffin had filed in bad faith, that "we will closely scrutinize any future filings by Mr. Riffin . . . and we strongly admonish Mr. Riffin that abuse of the Board's processes will not be tolerated"), appeal dismissed sub nom. Riffin v. STB, 331 F. App'x 751 (D.C. Cir. 2009); see also Norfolk S. Ry.—Acquis. & Operation—Certain Rail Lines of the Del. & Hudson Ry., FD 35873 et al., slip op. at 2 (STB served Mar. 24, 2016) (striking certain pleadings by Riffin as irrelevant and "wholly inconsistent with the professional standards," including a pleading linking to a video that depicts a woman being murdered by her husband in a car-bombing).

information. See Ala. & Tenn. River Ry.—Lease & Operation Exemption—HGS-ATN, LLC, FD 36173 et al., slip op. at 3 (STB served Apr. 13, 2018). Here, however, the Board's concerns with the verified notice went well beyond a simple need for clarification. Indeed, even if Riffin had provided these additional materials with his original notice, several concerns about the transaction remain that warranted rejection. Accordingly, there was no material error in rejecting the notice without providing him an opportunity to submit additional information.

First, even if Riffin's additional documentation conclusively resolved the mileposts question, it would still remain unclear whether the right-of-way from milepost 7.53 to milepost 7.0 is an active rail line. In 1967, the line was abandoned from milepost 1.2 to milepost 7.0 (Sta. 365+70) in ICC Docket No. FD 24738. Several years later, pursuant to the FSP, the remaining portion of the York Branch—from milepost 12.8 to milepost 7.0—was designated for conveyance to Conrail. However, in the 1976 deed conveying the rail line to Conrail (a copy of which Riffin attached to his petition for reconsideration), it appears that only the portion of the line from milepost 12.8 to milepost 7.53 was conveyed to Conrail. Specifically, the deed says that the "cut line" dividing the portion to be conveyed to Conrail from the portion to be retained by the Penn Central bankruptcy trustees was "at Station 370+00, more or less, and along the westerly line of Campbell Road." (Pet., Attach.)[9] Even if Riffin is correct that milepost 7.53 lies at the western edge of Campbell Road, it would mean that the segment from milepost 7.53 to milepost 7.0 was *not* conveyed to Conrail through the 1976 deed, despite that segment being designated for conveyance to Conrail under the FSP.

Pursuant to the Regional Rail Reorganization Act of 1973, Pub. L. No. 93-236, 87 Stat. 985 (1974) (3R Act),[10] lines not conveyed to Conrail under the FSP could be abandoned without agency approval.[11] Accordingly, determining whether the right-of-way from milepost 7.53 to milepost 7.0 remains an active rail line or was abandoned would first require consideration of whether the FSP or the 1976 deed is controlling.[12] Riffin fails to address this

[9] The valuation maps that are cited in the deed are not attached to the version of the deed provided by Riffin.

[10] See section 304 of the 3R Act, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. No. 94-210, 90 Stat. 127 (1976), codified at 45 U.S.C. § 744.

[11] See Rail Serv. Continuation Subsidy Standards, 3 S.T.B. 131, 133 (1998):

> Section 304 of the 3R Act permitted the summary discontinuance of service over those lines not included in the [FSP] without Interstate Commerce Commission (ICC or Commission) approval if 60 days' notice was given and certain parties were notified. Beginning 120 days after such discontinuance, the summary abandonment of a line was allowed if 30 days' notice was given and the parties were notified. The 3R Act, in effect, authorized the discontinuance and abandonment of the lines not included in the [FSP]; ICC approval was not needed.

[12] Under 45 U.S.C. § 744(a)-(b), even though agency approval is not needed for discontinuance and abandonment of lines not conveyed to Conrail through the FSP, there are procedural steps that must be taken, including the filing of a notice with (among other entities)

fundamental question of the Board's jurisdiction over the line at issue. And even if he had, it is unclear that the Board would even have the power to answer it. In Conrail v. STB, 571 F.3d 13, 19 (D.C. Cir. 2009), the United States Court of Appeals for the District of Columbia Circuit concluded that the Board lacks the power to determine the nature of track where there is a dispute concerning an interpretation of the FSP or of a conveyance order of the Special Court.[13] As the Board stated in the April 2022 Decision, it may reject a notice when there are questions regarding the Board's jurisdiction over the subject line. Apr. 2022 Decision, FD 36548, slip op. at 3 (citing Passaic St. Props., LLC—Acquis. & Operation Exemption—N.Y. & Greenwood Lake Ry., FD 36187, slip op. at 2 (STB served July 18, 2018)). Because questions remain not just about whether the line at issue was transferred to Conrail as an active rail line, but also about whether the Board is even the proper entity to answer the jurisdictional question in the first place, the Board was justified in rejecting the notice notwithstanding the evidence Riffin now submits.

Second, even if there were no doubt that this 0.53-mile segment is an active rail line, Riffin has still failed to demonstrate that there is an "agreement" to acquire the line as contemplated by 49 C.F.R. § 1150.33(c). In the April 2022 Decision, the Board held that "the verified notice, on its face, does not appear to fit within or comply with the class exemption." Apr. 2022 Decision, FD 36548, slip op. at 6. The Board explained:

> [U]nder Riffin's approach, simply obtaining a deed to the underlying property would amount to an agreement; but in many cases the owner of the underlying property is not the owner of a rail line on the property, and here, it is unclear if the owners of the rail lines (if in fact these properties are even rail lines subject to the Board's jurisdiction) have agreed to the conveyance of the lines or are even aware of Riffin's ownership claims to the property under these lines.

Id. The Board also noted that, under Riffin's assertions, part of the line he acquired was being leased by NSR to ESPN, but Riffin did not indicate whether he had a lease agreement with ESPN. Id. at 5. Given these substantial questions concerning the existence of an agreement to transfer a rail line, the Board found that the notice, on its face, did not appear to fit within or comply with the class exemption. Id. at 6.

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the "[Interstate Commerce] Commission," the predecessor to the Board. Accordingly, even if the line was not conveyed to Conrail and, instead, remained with the Penn Central bankruptcy trustees, the Board may still need to determine whether abandonment in fact occurred. See Consol. Rail Corp.—Aban. Exemption—in Schuylkill & Carbon Cntys., Pa., AB 167 (Sub-No. 1195X), slip op. at 4 (STB served Aug. 4, 2022); Ulster & Del. Ry. Revitalization Corp.—Pet. for Declaratory Ord., FD 36164, slip op. at 5 (STB served June 29, 2018); Md. Transit Admin.—Aban. Exemption—in Somerset Cnty., Md., AB 590 (Sub-No. 1X), slip op. at 4 (STB served May 14, 2015).

[13] In 1974, a three-judge panel—the Special Court—was established to oversee "all judicial proceedings with respect to the [FSP]." 45 U.S.C. § 719(b)(1). However, the Special Court was abolished in 1996, and the jurisdiction of that court was assumed by the United States District Court for the District of Columbia. 45 U.S.C. § 719(b)(2).

In response to the April 2022 Decision, Riffin argues that the state court's consent order in the quiet title action "is the entirety of the 'Agreement' between Petitioner and Norfolk Southern." (Pet. 5.) He also states that, although the lease agreement between NSR and ESPN has not been transferred to him, the state court's order is controlling. (Id. at 10.)

Contrary to Riffin's assertions, these facts do not demonstrate that the Board's conclusion in the April 2022 Decision was material error. Riffin claims he has acquired the rail line not through a traditional sales agreement for the line itself, but through a quiet title action for the property underlying the line. Even assuming, for the sake of argument, that NSR consented to the terms of the state court's order (which provides that Riffin acquired "all rights, privileges or legal interests appertaining or appurtenant to, or in any way associated with" the right-of-way), (Notice, App., Attach.), there is no indication that Riffin sought to acquire the rail line itself, or that NSR intended to convey, or believed the consent order to convey, an active rail line to Riffin—no indication, in other words, that the "rights, privileges, or legal interests" being conveyed under the consent order were understood to include the transfer of an active rail line. Given the confusion about the status of the line, it remains questionable whether NSR was aware that Riffin was seeking to acquire an active rail line through a quiet title action. Even if Riffin is correct that these actions resulted in his legally acquiring a rail line, it was appropriate for the Board to hold that it is unclear that there is an "agreement" as required to qualify for the class exemption.

Third, Riffin's petition only bolsters the April 2022 Decision's final reason for rejecting the notice: that Riffin's efforts to acquire the relevant property in no way resemble the kind of routine, non-controversial transaction for which the class exemption was intended. The Board reiterates:

> Riffin's attempt here to become a rail carrier by acquiring disjointed pieces of property, which may not even contain rail lines subject to the Board's jurisdiction, through quiet-title actions is fundamentally at odds with the agency's purpose for establishing the notice-of-exemption procedures in the first place: to provide an expedited means of securing authority in routine and non-controversial transactions.

Apr. 2022 Decision, FD 36548, slip op. at 6; see also Riffin—Acquis. & Operation Exemption, FD 34501 et al., slip op. at 6 (providing that the class exemption process is to be used for non-controversial cases requiring minimal scrutiny); Riffin—Acquis. & Operation Exemption, FD 35705, slip op. at 2 (same); Riffin—Acquis. & Operation Exemption, FD 35236, slip op. at 2 (same).

In addition, it is not clear that Riffin seeks to acquire the segment from milepost 7.53 to milepost 7.0 with the intent and ability to provide rail service. See Apr. 2022 Decision at 5-6 (citing ABC & D Recycling, Inc.—Lease & Operation Exemption—A Line of R.R. in Ware, Mass., FD 35397, slip op. at 4 (STB served Jan. 20, 2011) (rejecting applicant's notice to lease and operate due to questions about its ability and intent to act as a common carrier)) (explaining that there were facts calling into question Riffin's intent in seeking to acquire the Stewartstown Railroad Segment); Riffin—Pet. for Declaratory Ord., FD 35245, slip op. at 5 (STB served

Sept. 15, 2009) ("[F]or an entity to qualify as a rail carrier, it must (1) hold itself out as a common carrier for hire, and (2) have the ability to carry for hire."); see also Grand Elk R.R., Inc.—Acquis. Exemption—Lines of Wis. Cent. Ltd. in the State of Mich., FD 36503 et al., slip op. at 3 (STB served Dec. 20, 2021) ("The class exemption allowing noncarriers . . . to acquire or operate a rail line was adopted to serve shippers and community interests by facilitating continued rail service."). Riffin claims that there are tracks located approximately 2,800 feet east of Campbell Road, (Pet. 10), but even crediting that assertion, those tracks are not connected to the York Branch endpoint at Campbell Road and therefore are not connected to the interstate rail network. Riffin also does not provide any indication that there are shippers in the area that he intends to serve and there do not appear to be any potential customers located in the area. These facts cast serious doubt that Riffin sought to acquire this property with the intention and ability to provide rail service.

The Board also notes that in 2005 it rejected a notice of exemption filed by Riffin to acquire a different rail line in York County, Pa. Riffin—Acquis. & Operation Exemption, FD 34501 et al., slip op. at 6. There, the Board stated that it appeared that Riffin was "attempting to use the cover of Board authority allowing rail operations in Pennsylvania to shield seemingly independent operations and construction in Maryland from legitimate processes of state law." Id. The Board held that it was "concerned that Riffin may be using the licensing process in improper ways" and that it "has a responsibility to protect the integrity of its processes"; for those reasons, the Board revoked the exemption. Id. In two other instances, the Board has found that Riffin's goal in acquiring a rail line was merely to induce an improper settlement. See Consol. Rail Corp.—Aban. Exemption—in Hudson Cnty., N.J., AB 167 (Sub-No. 1189X), slip op. at 10 (STB served Apr. 28, 2017) ("There is evidence that Riffin became a party to this proceeding for improper purposes (causing harassment, creating delay, and forcing a settlement to benefit him financially).") (footnote omitted); Norfolk S. Ry.—Aban. Exemption—in Norfolk & Va. Beach, Va., AB 290 (Sub-No. 293X), slip op. at 8 (STB served Nov. 6, 2007) ("The evidence presented by NSR raises serious concern that Mr. Riffin's phone call to NSR's counsel may have been for an improper purpose, that Mr. Riffin's real interest is in the Cockeysville Line, and that his filing of comments and an intent to file an OFA in this proceeding were for the purpose of harassing NSR into conveying the freight operating rights of the Cockeysville Line to Mr. Riffin."); see also Riffin—Pet. for Declaratory Ord., Docket No. FD 36078, slip op. at 5-7 (Apr. 27, 2017) (striking Riffin's petition for a declaratory order because "he is abusing the Board's processes by improperly seeking to obstruct [a proposed] construction project in order to obtain a settlement in exchange for ceasing his vexatious litigation.") Here, the Board recognizes that Riffin is the only party that appeared in this notice-of-exemption proceeding. But given that it is unclear whether the line at issue remains part of the interstate rail network, that Riffin did not demonstrate that an agreement to acquire a rail line (as is typically understood) existed, that any tracks that exist on the property appear to be disconnected from the network and there appears to be no need for rail service, and Riffin's history of seeking to acquire defunct rail lines for purposes other than to provide rail service, rejection of the notice of exemption was and remains appropriate.[14]

[14] See S. San Luis Valley R.R.—Acquis. & Operation Exemption—Iowa Pac. Holdings, LLC, FD 35586 et al. (STB served Feb. 10, 2012) (rejecting a notice of exemption based on

The Board was justified in requiring that Riffin serve any further filings in this matter on the conveying carriers. Finally, Riffin's petition could also be read to argue that it was material error for the Board to require him to serve a copy of any further filings in this matter on the conveying carriers. (Pet. 4-5.)[15] However, it has been long recognized that administrative agencies have broad discretion to manage and control their dockets and proceedings. See Neighborhood TV Co. v. FCC, 742 F.2d 629, 636 (D.C. Cir. 1984) ("There is a general principle that '[i]t is always within the discretion of a court or an administrative agency to relax or modify its procedural rules adopted for the orderly transaction of business when in a given case the ends of justice require it.'" (quoting Am. Farm Lines v. Black Ball Freight Serv., 397 U.S. 532, 539 (1970))). The Board occasionally requires parties to serve other parties, even where service is not automatically required by regulation, when it concludes that a potential Board action could impact that party or that the party may have information relevant to the proceeding. See Savage Tooele R.R.—Constr. & Operation Exemption—Line of R.R. in Tooele Cnty., Utah, FD 36616, slip op. at 2 (STB served Aug. 24, 2022) (requiring applicant to file a supplement clarifying the status of a rail line and to serve it on the carrier that owned the line in question); Sunflower Rails-Trails Conservancy, Inc.—Pet. For Declaratory Ord.—Sale of Railbanked Right-of-Way, FD 36034, slip op. at 6 (STB served Feb. 23, 2017) (directing petitioner to serve a copy of the Board's decision on the carrier that possessed a right to reactivate a railbanked corridor so that it was aware of the Board's ruling and the potential of future actions). In any event, the requirement that Riffin serve a copy of any additional filings related to this matter on the carriers whose lines he claims to be acquiring had no bearing on the Board's decision to reject the notice and therefore cannot constitute material error as to the notice being rejected.

For these reasons, Riffin's petition for reconsideration is denied.

It is ordered:

1. Riffin's motion to amend is treated as a motion to withdraw. The motion to withdraw the segment of the York Branch from mileposts 2.0 to 7.0 and the Stewartstown Railroad segment from the notice is granted.

2. Riffin's petition for reconsideration is denied.

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unresolved issues regarding prior acquisitions of the rail line, despite the lack of any opposition or petitions to reject).

[15] Riffin states that the Board rejected the notice for his "failure to serve a copy of the [notice] on the Stewartstown Railroad." (Pet. 2.) But the Board did not reject the notice for this reason. The Board instead required that any future filings in this proceeding be served "on the carriers whose lines he claims to be acquiring." Apr. 2022 Decision, FD 36548, slip op. at 7. However, the Board here addresses Riffin's argument that there is no requirement "to serve a copy of the [notice] on the conveying carrier (or on any other entity that may be affected by the [notice])." (Pet. 4.)

3. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.