

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: October 6, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 04-23078 Filed 10-13-04; 8:45 am]

**BILLING CODE 4910-59-C**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34543]

#### **Patrick D. Broe and OmniTRAX, Inc.—Continuance in Control Exemption—Fulton County Railway, LLC**

Patrick D. Broe (Mr. Broe) and OmniTRAX, Inc. (OmniTRAX) (collectively, applicants) have filed a verified notice of exemption to continue in control of Fulton County Railway, LLC (FCR), upon FCR's becoming a Class III rail carrier.

The transaction is scheduled to be consummated on or shortly after October 15, 2004.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 34542, *Fulton County Railway, LLC—Lease and Operation Exemption—CSX Transportation, Inc.*, wherein FCR<sup>1</sup> seeks to lease from CSX Transportation, Inc. (CSXT), and operate approximately 55 miles of rail lines that extend from: (1) milepost ANO 855.06, V.S. 3+30, at Fulco Junction, westerly to milepost ANO 858.72, V.S. 196+31; (2) milepost ANO 858.72, V.S. 196+31 northeasterly to milepost ANO 860.75, V.S. 304+70, at the northeast end of the line; and (3) V.S. 196+31 = V.S. 0+00 southwesterly to V.S. 208+94, at the southwest end of the line, through the Fulco Industrial Park, including the track in the Fulco Yard, and the appurtenant sidings, and industrial tracks, in Atlanta, GA.

Mr. Broe is a noncarrier individual who directly controls OmniTRAX, a noncarrier company. OmniTRAX currently controls nine Class III rail carriers operating in seven states: Chicago Rail Link, LLC (CRL); Georgia Woodlands Railroad, LLC (GWRC); Great Western Railway of Colorado, LLC (GWR); Great Western Railway of Iowa LLC (CBGR); Manufacturers' Junction Railway, LLC (MJ); Newburgh & South Shore Railroad Limited (NSR); Northern Ohio & Western Railway, LLC (NOW); Panhandle Northern Railroad, LLC

(PNR); and Alliance Terminal Railroad, LLC (ATR).<sup>2</sup>

Applicants state that: (1) The rail lines operated by CRL, GWRC, GWR, CBGR, MJ, NSR, NOW, PNR and ATR do not connect with the rail lines being leased by FCR; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines being leased by FCR with any railroad in the OmniTRAX corporate family; and (3) neither FCR nor any of the carriers controlled by OmniTRAX are Class I rail carriers. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2). The purpose of the transaction is to reduce overhead expenses, coordinate billing, maintenance, mechanical and personnel policies and practices of its rail carrier subsidiaries and thereby improve the overall efficiency of rail service provided by the ten railroads.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34543, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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

Decided: October 7, 2004.

<sup>2</sup> CRL's lines are located in Illinois; GWRC's line is located in Georgia; GWR's lines are located in Colorado; CBGR's lines are located in Iowa; MJ's lines are located in Illinois; NSR's lines are located in Ohio; NOW's line is located in Ohio; PNR's line is located in Texas; and ATR's lines are located in Texas.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-23049 Filed 10-13-04; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34542]

#### **Fulton County Railway, LLC—Lease and Operation Exemption—CSX Transportation, Inc.**

Fulton County Railway, LLC (FCR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from CSX Transportation, Inc. (CSXT), and operate approximately 55 miles of rail lines located in Atlanta, GA. The rail lines extend from: (1) Milepost ANO 855.06, V.S. 3+30, at Fulco Junction, westerly to milepost ANO 858.72, V.S. 196+31; (2) milepost ANO 858.72, V.S. 196+31 northeasterly to milepost ANO 860.75, V.S. 304+70, at the northeast end of the line; and (3) V.S. 196+31 = V.S. 0+00 southwesterly to V.S. 208+94, at the southwest end of the line, through the Fulco Industrial Park, including the track in the Fulco Yard, and the appurtenant sidings, and industrial tracks.

This transaction is related to STB Finance Docket No. 34543, *Patrick D. Broe and OmniTRAX, Inc.—Continuance in Control Exemption—Fulton County Railway, LLC.*, wherein Patrick D. Broe and OmniTRAX, Inc., have filed a notice of exemption to continue in control of FCR upon its becoming a Class III rail carrier.

FCR certifies that its projected revenues as a result of this transaction will not result in FCR's becoming a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction is expected to be consummated on or shortly after October 15, 2004.

If the 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34542, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik, LLP, 1455 F

<sup>1</sup> FCR, a Colorado Limited Liability Company, was formed for the purpose of leasing and operating certain rail lines owned by CSXT in Atlanta, GA.

Street, NW., Suite 225, Washington, DC 20005.

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

Decided: October 7, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 04-23048 Filed 10-13-04; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

#### Agency Information Collection; Activity Under OMB Review; Airline Service Quality Performance—Part 234

**AGENCY:** Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, Public Law 104-13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of DOT requiring large certificated air carriers to file "On-Time Flight Performance Reports" and "Mishandled-Baggage Reports" pursuant to 14 CFR 234.4 and 234.6. These reports are used to monitor the quality of air service that major air carriers are providing the flying public.

**DATES:** Written comments should be submitted by December 13, 2004.

**ADDRESSES:** Comments should be directed to: Office of Airline Information, K-14, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, FAX NO. 366-3383 or E-MAIL [bernard.stankus@bts.gov](mailto:bernard.stankus@bts.gov).

**Comments:** Comments should identify the OMB # 2138-0041. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138-0041. The postcard will be date/time stamped and returned.

**FOR FURTHER INFORMATION CONTACT:** Bernie Stankus Office of Airline Information, K-14, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, (202) 366-4387.

#### SUPPLEMENTARY INFORMATION:

OMB Approval No.: 2138-0041.

Title: Airline Service Quality Performance—Part 234.

Form No.: BTS Form 234.

Type of Review: Extension of a currently approved collection.

Respondents: Large certificated air carriers that account for at least 1 percent of the domestic scheduled passenger revenues.

Number of Respondents: 18.

Total Burden Per Response: 20 hours.

Total Annual Burden: 4,380 hours.

Needs and Uses:

#### Consumer Information

Part 234 gives air travelers information concerning their chances of on-time flights and the rate of mishandled baggage by the eleven largest scheduled domestic passenger carriers.

#### Reducing and Identifying Traffic Delays

The Federal Aviation Administration uses Part 234 data to pinpoint and analyze air traffic delays. Wheels-up and wheels-down times are used in conjunction with departure and arrival times to show the extent of ground delays. Actual elapsed flight time, wheels-down minus wheels-up time, is compared to scheduled elapsed flight time to identify airborne delays. The reporting of aircraft tail number allows the FAA to track an aircraft through the air network, which enables the FAA to study the ripple effects of delays at hub airports. The data can be analyzed for airport design changes, new equipment purchases, the planning of new runways or airports based on current and projected airport delays, and traffic levels. The identification of the reason for delays allows the FAA, airport operators, and air carriers to pinpoint delays under their control.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on October 7, 2004.

**Donald W. Bright,**

*Assistant Director, Airline Information.*

[FR Doc. 04-23080 Filed 10-13-04; 8:45 am]

BILLING CODE 4910-FE-P

## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

#### Agency Pilot Program; Activity Under Review; T-100 Traffic Reporting by Alaskan Mail Air Carriers

**AGENCY:** Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Notice.

**SUMMARY:** At a September 15, 2004, joint meeting, representative Alaskan air carriers, the United States Postal Service (USPS), and the Department of Transportation's (DOT) Bureau of Transportation Statistics (BTS) and Office of Secretary, agreed to develop a pilot program for collecting weekly T-100 data, in an effort to reduce air carrier reporting burden.

Currently, air carriers transporting non-priority bypass mail pursuant to the Rural service Improvement act (RSIA) are required to submit monthly T-100 traffic reports to BTS and daily activity reports to USPS, which uses the daily report to monitor air carrier compliance with RSIA's requirements that air carriers provide service at least three days a week and exhibit adherence to those scheduled flights. Some carriers hired additional staff to complete the daily activity reports. If BTS adds two new data elements to the T-100 report and requires weekly submissions (due within 7 days after weeks end), both DOT's and USPS' data needs can be met. The two new data elements are: (1) Actual Day of Flight: the numeric day of the month in which the flight was flown; and (2) Aircraft Certification: A code to identify the type of mail operation, i.e., Bush Part 121, Bush Part 135, Bush Amphibious or Mainline.

The pilot program will start on November 1, 2004. The carriers that participate in the pilot program will be relieved of the requirement to submit daily activity reports to USPS. If all parties are satisfied with the new data reporting, the pilot program will end with respect to data for December 31, 2004, and thereafter all Alaskan air carriers will be required to submit the weekly T-100 reports in lieu of the USPS daily activity reports.

A representative sample of Alaskan air carriers (anticipated to comprise no more than nine) will be selected from those who volunteer. Carriers may volunteer for the program by contacting Ms. Jennifer Fabrizi at [Jennifer.fabrizi@bts.gov](mailto:Jennifer.fabrizi@bts.gov) or (202) 366-8513 no sooner than the publication date of this notice and no later than October 29, 2004.