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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36702]

Chesapeake and Indiana Railroad Company, LLC—Lease and Operation Exemption—
Northern Indiana Railroad Company, LLC

Chesapeake & Indiana Railroad Company, LLC (CKIN), a Class III rail carrier, has filed a verified notice of exemption pursuant to 49 C.F.R. § 1150.41 to continue to lease and operate 27.52 miles of rail line that extend between milepost CF 0.63, at or near Lacrosse, Ind., and milepost CF 15.23, at or near Wellsboro, Ind., and between milepost CI 218.0, at or near English Lake, Ind., and milepost CI 230.92, at or near Malden, Ind., in LaPorte, Porter, and Starke Counties, Ind. (the Line).¹

According to the verified notice, the Line is currently owned by Northern Indiana Railroad, LLC (NIRC), and operated under lease by CKIN. CKIN's predecessor, Chesapeake & Indiana Railroad, Inc.,² first obtained authorization to operate approximately 32.97 miles of track (including the Line and an additional 5.45-mile

¹ By letter filed May 23, 2023, CKIN corrected the milepost description for the portion of the Line between Lacrosse and Wellsboro, indicating that all references in its verified notice to "milepost CF 0.23" should be replaced with "milepost CF 0.63" and all references to the Line constituting "27.92 miles" should be replaced with "27.52 miles."

² CKIN was recently acquired by Gulf & Atlantic Railways, LLC (an affiliate of Macquarie Infrastructure Partners V GP, LLC). As part of that transaction, CKIN was converted to a limited liability company through an asset transfer. (Verified Notice 2 n.1 (citing Macquarie Infrastructure Partners V GP, LLC, Verified Notice 3 n.5, Macquarie Infrastructure Partners V GP, LLC—Control Exemption—Camp Chase Rail, LLC, FD 36685).) Both the current CKIN and its predecessor are referred to herein as CKIN.

segment) in 2004 pursuant to a lease with the Line's former owner, the Town of North Judson, Ind. (the Town). Chesapeake & Ind. R.R.—Operation Exemption—N. Judson, Ind., FD 34529 (STB served Aug. 20, 2004). An amended lease between CKIN and the Town was subsequently filed with the Board and went into effect in 2017. Chesapeake & Ind. R.R.—Amended Operation Exemption—N. Judson, Ind., FD 36147 (STB served Oct. 20, 2017). CKIN subsequently discontinued service on the additional 5.45-mile segment. Chesapeake & Ind. R.R.—Discontinuance of Serv. Exemption—in Starke Cnty., Ind., AB 1259X (STB served Nov. 28, 2017).³ In 2021, NIRC acquired from the Town the entire 32.97 miles of rail line (including the Line and the 5.45-mile segment over which service had been discontinued), see N. Ind. R.R.—Acquis. Exemption—N. Judson, Ind., FD 36499 (STB served Apr. 2, 2021), and NIRC assumed the lease with CKIN. In connection with the sale transaction, CKIN and NIRC entered into a new lease agreement, amending the terms under which CKIN will continue its existing operations on the Line. CKIN states that the new lease agreement will become effective as of the effective date of this notice of exemption.⁴

CKIN certifies that its projected annual revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier and will not exceed

³ The discontinued segment extended between milepost CI 212.55, at or near North Judson, and milepost CI 218.0, at or near English Lake, in Starke County. (See Verified Notice 3 n.4.)

⁴ CKIN states that, because CKIN is a Class III rail carrier and is seeking to lease and operate the rail property of a third party over which CKIN already operates, the new lease transaction is within the scope of the exemption set out in 49 C.F.R. § 1150.41. (Verified Notice 4 & n.7 (citing C&S R.R.—Lease & Operation Exemption—Reading Blue Mountain & N. R.R., FD 36517 (STB served May 28, 2021); Portland & W. R.R.—Amended Lease & Operation Exemption Containing Interchange Commitment—BNSF Ry., FD 36391 (STB served Apr. 16, 2020)).)

\$5 million. CKIN states that neither the new lease agreement nor the prior lease agreement contains any provision or agreement that may limit future interchange with a third party connecting carrier and that the Line is not subject to any agreement that imposes such an interchange commitment.

The transaction may be consummated on or after June 11, 2023, the effective date of the exemption (30 days after the verified notice was filed).

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. Petitions for stay must be filed no later than June 2, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36702, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on CKIN's representative, Terence M. Hynes, Sidley Austin LLP, 1501 K St., N.W., Washington, DC 20005.

According to CKIN, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 23, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.