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SERVICE DATE – MARCH 10, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36670]

Grafton and Upton Railroad Company—Acquisition and Operation Exemption—CSX Transportation, Inc.

Grafton and Upton Railroad Company (G&U), a Class III carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to acquire by easement from CSX Transportation, Inc. (CSXT), and to continue to operate, approximately 8.4 miles of rail line (known as the Milford Secondary) between milepost QVG 0 and milepost QVG 8.4 in Milford, Bellingham, and Franklin, Mass. (the Line).¹

According to the verified notice, this proceeding is related to Massachusetts Bay Transportation Authority—Acquisition Exemption—CSX Transportation, Inc., Docket No. FD 36669. In that proceeding, Massachusetts Bay Transportation Authority (MBTA) filed a verified notice of exemption seeking authority to acquire the physical assets of the Line and another rail line from CSXT, subject to a permanent and exclusive freight common carrier service easement that will be retained by CSXT. See Mass. Bay Transp. Auth.—Acquis. Exemption—CSX Transp., Inc., Docket No. FD 36669, slip op. at 1-2

¹ G&U currently operates over the Line pursuant to an existing easement from CSXT. See Grafton & Upton R.R.—Acquis. & Operation Exemption—CSX Transp., Inc., FD 36444 (STB served Oct. 14, 2020).

(STB served March 1, 2023).² In the verified notice in this proceeding, G&U states that immediately upon MBTA's closing on the Line's assets, CSXT will assign its new, retained freight easement over the Line to G&U, which will replace G&U's existing easement. G&U further states that it will execute an operating agreement with the MBTA which, together with the new easement, will govern, among other things, MBTA's commuter rail operations and maintenance and G&U's freight common carrier operations over the Line. According to G&U, the agreement assigning the easement from CSXT to G&U provides for an initial term of ten years, subject to three five-year extensions if certain conditions are met.

G&U certifies that its projected annual revenues as a result of this transaction will not exceed \$5 million or the threshold required to qualify as a Class III carrier. G&U also certifies that the proposed transaction does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after March 24, 2023, the effective date of the exemption (30 days after the verified notice was filed).³

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

² As noted in that decision, MBTA also filed a motion to dismiss its notice of exemption on the grounds that its transaction does not require authorization from the Board. Mass. Bay Transp. Auth.—Acquis. Exemption—CSX Transp., Inc., Docket No. FD 36669, slip op. at 1 n.1 (STB served March 1, 2023).

³ In Docket No. FD 36669, MBTA states that it will consummate its acquisition of the Line's assets once the Board has rendered a favorable decision on the motion to dismiss filed concurrently in that docket and upon effectiveness of the exemption here. Mass. Bay Transp. Auth.—Acquis. Exemption—CSX Transp., Inc., Docket No. FD 36669, slip op. at 2-3 (STB served March 1, 2023).

effectiveness of the exemption. Petitions for stay must be filed no later than March 17, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36670, must be filed with the Surface Transportation Board either via e-filing 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 G&U's representative, James E. Howard, 57 Via Buena Vista, Monterey, CA 93940.

According to G&U, 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: March 7, 2023.

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