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SERVICE DATE - APRIL 28, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33737]

Rio Grande Pacific Corporation--Continuance in Control Exemption--New Orleans & Gulf Coast Railway Company

Rio Grande Pacific Corporation (Rio Grande), a noncarrier, has filed a verified notice of exemption to continue in control of New Orleans & Gulf Coast Railway Company (NOGC), upon its becoming a Class III rail carrier.

The transaction was scheduled to be consummated on or shortly after April 15, 1999.

This transaction is related to STB Finance Docket No. 33736, New Orleans & Gulf Coast Railway Company--Acquisition Exemption--New Orleans Lower Coast Railroad Company, Inc., wherein NOGC seeks to acquire rail lines from New Orleans Lower Coast Railroad Company, Inc. (NOLR).

In addition to NOGC,¹ Rio Grande controls three Class III rail carriers. These carriers are Idaho Northern & Pacific Railroad Company, operating in the states of Idaho and Oregon, Nebraska Central Railroad Company, operating in the state of Nebraska, and Wichita, Tillman & Jackson Railway Company, Inc., operating in the states of Texas and Oklahoma.

¹ NOGC is a noncarrier corporation formed for the purpose of acquiring 23.688 miles of rail line from NOLR. NOGC will be the exclusive operator of the line.

Rio Grande states that: (i) the rail lines operated by NOGC do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect NOGC's lines with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

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. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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. 33737, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morrell, Esq., Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

STB Finance Docket No. 33737

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Decided: April 20, 1999.

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

Vernon A. Williams

Secretary