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SERVICE DATE – MARCH 24, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36658]

Rainier Rail LLC—Acquisition and Change of Operators Exemption—City of Tacoma, Wash., Department of Public Works d/b/a Tacoma Rail Mountain Division

Rainier Rail LLC (Rainier Rail), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from the City of Tacoma, Department of Public Works d/b/a Tacoma Rail Mountain Division (TRMW),¹ and to operate approximately 41.86 miles of rail line consisting of: (1) an approximately 0.8-mile rail line between milepost 28.6 and milepost 27.8C near McKenna, Wash., currently operated by WRL LLC (WRL) pursuant to a lease with TRMW (the McKenna Segment)²; and (2) a group of interconnected line segments currently operated by Tacoma Rail extending between milepost 27.8C at McKenna and milepost 13.09 near Frederickson, Wash., from milepost 13.09 near Frederickson to milepost 5.65 near Tacoma, Wash., and from

¹ On March 15, 2023, Rainier Rail filed an errata sheet correcting the name and address of the transferor of the Lines.

² The City of Tacoma, Wash., Department of Public Utilities d/b/a Tacoma Rail (Tacoma Rail) conducted common carrier operations on the McKenna Segment prior to the commencement of WRL operations in 2021. Rainier Rail notes that WRL did not seek a change of operator exemption when it sought to begin operating over the McKenna Segment in 2021, resulting in Tacoma Rail's continued common carrier status on the McKenna Segment. See WRL LLC—Lease & Operation Exemption—City of Tacoma Dep't of Pub. Works, FD 36539 (STB served Sept. 10, 2021). Rainier Rail seeks to terminate both WRL's and Tacoma Rail's common carrier status on the McKenna Segment with this change of operator exemption.

milepost 13.09 near Frederickson to milepost 32 near Eatonville, Wash. (the MD Segments) (collectively with the McKenna Segment, the Lines).

This transaction is related to a concurrently filed petition for exemption in Docket No. FD 36659, Paul Didelius—Continuance in Control Exemption—Rainier Rail LLC, in which Paul Didelius seeks Board approval to continue in control of Rainier Rail upon Rainier Rail's becoming a Class III rail carrier.

According to the verified notice, Rainier Rail and TRMW have reached an agreement pursuant to which Rainier Rail will acquire the Lines and, upon consummation of the acquisition transaction, replace WRL and Tacoma Rail as the common carrier service provider on the McKenna Segment, and replace Tacoma Rail as the common carrier service provider on the MD Segments. The verified notice indicates that WRL and Tacoma Rail do not object to the proposed transaction, by which they would be replaced by Rainier Rail as operators on the Lines.

Rainier Rail certifies that the agreement governing the proposed transaction does not include any provision or agreement that would limit Rainier Rail from interchanging with any third-party connecting carrier. Rainier Rail further certifies that its projected annual revenues will not exceed \$5 million and will not result in Rainier Rail's becoming a Class I or Class II rail carrier. Under 49 C.F.R. § 1150.32(b), a change in operator requires that notice be given to shippers. Rainier Rail states that it has contacted all customers on the Lines to advise them of the planned change in operators.³

Rainier Rail states that it plans to commence operations as soon as the Board's

³ Rainier Rail also states in its verified notice that it intends to furnish each affected customer with a copy of the verified notice at the time of filing.

authorization processes will allow, subject to the approval of the related petition for exemption. The effective date of this acquisition and change of operators exemption will be held in abeyance pending review of the petition for exemption.

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 seven days before the exemption becomes effective; a deadline for filing petitions for stay will be established in a future decision that establishes an effective date for this exemption.

All pleadings, referring to Docket No. FD 36658, 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 Rainier Rail's representative, James H. M. Savage, 22 Rockingham Court, Germantown, MD 20874.

According to Rainier Rail, 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 21, 2023.

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