

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36318]

5900 Holdings LLC—Corporate Family Transaction Exemption

On July 16, 2019, 5900 Holdings LLC (Holdings), a noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(3), which exempts from the prior approval requirements of 49 U.S.C. § 11323 “[t]ransactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.”

49 C.F.R. § 1180.2(d)(3).

Holdings states that it is a newly created limited liability company owned by Hainesport Transportation Group, LLC (HTG). HTG is a noncarrier holding company that also owns Hainesport Secondary Railroad, LLC (HSRR), and Hainesport Industrial Railroad, LLC (HIRR).¹ Holdings states that HSRR currently owns three contiguous lots of real property in Hainesport, N.J., which are traversed by two rail lines known as the South Line and the East Line (collectively, the Lines). Holdings states that HSRR leases

¹ In Hainesport Transportation Group, LLC—Corp. Family Transaction Exemption, FD 36184 (STB served May 24, 2018), the owners of HSRR and HIRR filed a verified notice of exemption under § 1180.2(d)(3) to trade their ownership interests in HSRR and HIRR for an identical ownership interest in HTG. The Board determined that, because the owners were “merely inserting HTG, a noncarrier holding company, in the chain of control between them and the railroads they own,” the transaction was outside the scope of § 11323(a) and did not require the Board’s prior approval.

the East Line to HIRR.² According to Holdings, under the proposed transaction, Holdings would acquire HIRR's lease of the East Line and enter a new lease with HSRR for the remainder of the Lines; Holdings would subsequently designate HSRR as the operator of the Lines and remain the non-operating lessee with residual common carrier obligations.

Holdings states that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

Holdings states that the purpose of the transaction is to obtain new financing.

The earliest this transaction may be consummated is August 15, 2019 (30 days after the verified notice of exemption was filed). Holdings states that it expects to consummate the transaction on approximately August 16, 2019.

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. However, 49 U.S.C. § 11326(c) does not provide for labor protection for transactions under 49 U.S.C. §§ 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 rail carriers.

If the verified notice contains false or misleading information, the exemption is

² See Hainesport Indus. R.R.—Lease & Operation Exemption—Hainesport Secondary R.R., FD 36185 (STB served July 3, 2018).

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 August 8, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36318, 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. In addition, a copy of each pleading must be served on Holdings' representative, John D. Heffner, Clark Hill, PLC, 1001 Pennsylvania Avenue, N.W., Suite 1300 South, Washington, DC 20004.

According to Holdings, this action is 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)(1).

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

Decided: July 29, 2019.

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