

46717

SERVICE DATE – DECEMBER 6, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36254]

Progressive Rail Incorporated—Continuance in Control Exemption—St. Paul & Pacific Northwest Railroad Company, LLC

Progressive Rail Incorporated (PGR), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of St. Paul & Pacific Northwest Railroad Company, LLC (SPN), upon SPN's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in St. Paul & Pacific Northwest Railroad Company, LLC—Change in Operators Exemption—Kettle Falls International Railway LLC, Docket No. FD 36246. In that proceeding, SPN seeks to assume operations over approximately 83 miles of rail line owned by BNSF Railway Company, that extends north from Chewelah, Wash., to Kettle Falls, Wash., where the line branches; the West Branch continues northwest to West Kettle Falls, Wash., and the East Branch continues northeast across the United States-Canada border at milepost 139.7 and on to Columbia Gardens, B.C., Canada. PGR states that SPN is a new entity established by PGR to lease and operate those lines.

The earliest this transaction may be consummated is December 20, 2018, the effective date of the exemption (30 days after the verified notice was filed). PGR states that it intends to consummate the transaction concurrently with SPN's commencement of

operations pursuant to Docket No. FD 36246, on or about January 1, 2019.

PGR will continue in control of SPN upon SPN's becoming a Class III rail carrier, while remaining in control of eight other Class III carriers: Airlake Terminal Railway Company, LLC; Central Midland Railway Company; Iowa Traction Railway Company; Iowa Southern Railway Company; Piedmont & Northern Railroad, LLC; Chicago Junction Railway Company; St. Paul & Pacific Railroad Company, LLC; and Clackamas Valley Railway Company, LLC.

PGR verifies that: (1) the rail lines do not connect with the lines of PGR or of the lines of any of the other eight Class III rail carriers controlled by PGR; (2) this continuance in control transaction is not part of a series of anticipated transactions that would result in such a connection; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 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 §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all the carriers involved are Class III carriers.

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 effectiveness of the exemption. Petitions for stay must be filed no later than December 13, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36254, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423. In addition, one copy of each pleading must be served on Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, Ill. 60606.

Board decisions and notices are available on our website at www.stb.gov.

Decided: December 3, 2018.

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