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SERVICE DATE – SEPTEMBER 14, 2022

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36639]

Wheeling & Lake Erie Railway Company—Sublease Renewal Exemption—Pittsburgh & West Virginia Railroad

Wheeling & Lake Erie Railway Company (W&LE) has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(4) to renew its sublease of approximately 120 miles of rail line of the Pittsburgh & West Virginia Railroad (PWV), principally extending between Pittsburgh Junction, Ohio, and Connellsville, Pa., with short branch lines extending to Clairton and Mifflin Junction, Pa. (the Lines). W&LE states that the Lines have been leased by Norfolk Southern Railway Company (NSR) and its predecessors in interest since 1962. According to the verified notice, W&LE has subleased and provided all rail operations on the Lines since 1990. W&LE states that it has renewed the sublease for an additional period of ninety-nine (99) years, from October 16, 2062, to October 16, 2161.¹

¹ According to W&LE, the current agreement provides for the right to extend the sublease for an additional 99-year term with a written notice. Exhibit 2 of the verified notice provides copies of W&LE's written notice to NSR extending the 1990 sublease, dated May 24, 2022, and NSR's notice to PWV extending the 1962 lease, dated August 9, 2022. The verified notice states that no other modifications have been made to the underlying agreements.

According to the verified notice W&LE seeks to renew its current lease and sublease arrangements for the Lines to provide stability and certainty for W&LE's operation and to accommodate long-term planning and investment for those lines.

As a condition to the use of this exemption, any employees affected by this transaction will be protected by the conditions imposed in Mendocino Coast Ry.—Lease & Operate, 354 I.C.C. 732 (1978), modified, 360 I.C.C. 653 (1980).

The transaction may be consummated on or after September 28, 2022, the effective date of the exemption (30 days after the verified notice was filed).

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 September 22, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36639, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on W&LE's representative: Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to W&LE, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b).

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

Decided: September 8, 2022.

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