

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36421]

Cathcart Rail, LLC—Continuance in Control Exemption—Belpre Industrial Parkersburg Railroad, LLC

Cathcart Rail, LLC (CRL), a noncarrier holding company, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Belpre Industrial Parkersburg Railroad, LLC (BIP), upon BIP's becoming a Class III rail carrier.¹

This transaction is related to a verified notice of exemption filed in Docket No. FD 36388, where the Board authorized BIP to lease and operate approximately 46.9 miles of rail lines (the Lines) and yard property owned by CSX Transportation, Inc. See Belpre Indus. Parkersburg R.R.—Lease & Operation Exemption—CSX Transp., Inc., FD 36388 (STB served Apr. 3, 2020).²

The verified notice states that: (1) the Lines to be operated by BIP do not connect with those of BIR; (2) the transaction is not part of a series of anticipated transactions that would connect the Lines to any of the tracks of BIR; and (3) the transaction does not

¹ According to the verified notice, CRL currently controls Bucyrus Industrial Railroad, LLC (BIR). See also Bucyrus Indus. R.R.—Operation Exemption—Bucyrus Railcar Repair, LLC, FD 36329, slip op. at 1 n.1 (STB served July 25, 2019).

² CRL states that, due to an unintentional oversight, it failed to file this verified notice of exemption concurrently with the verified notice of exemption in Docket No. FD 36388.

involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(2).

The earliest this transaction may be consummated is August 22, 2020, the effective date of the exemption (30 days after the verified notice was filed).³

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. 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 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 to stay must be filed no later than August 14, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36421, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on CRL's representative, David F. Rifkind, Stinson LLP, 1775 Pennsylvania Avenue N.W., Suite 800, Washington, DC 20006.

³ CRL requests that the exemption be effective retroactive to the date BIP's lease and operation exemption became effective in Docket No. FD 36388. However, the class exemption invoked by CRL does not provide for retroactive effectiveness.

According to the verified notice, 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)(1).

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

Decided: August 3, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.