

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36685]

Macquarie Infrastructure Partners V GP, LLC—Control Exemption—Camp Chase Rail, LLC, Chesapeake and Indiana Railroad Company, Inc., and Vermilion Valley Railroad Company, Inc.

Macquarie Infrastructure Partners V GP, LLC (MIP GP), a noncarrier, filed on behalf of MIP Infrastructure Partners V fund vehicle (MIP V), MIP V Rail, LLC (MIP Rail), and Gulf & Atlantic Railway LLC (G&A),¹ a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to acquire control of three Class III railroads currently controlled by MB Rail IB, LLC (MBR IB):² Camp Chase Rail, LLC (Camp Chase); Chesapeake and Indiana Railroad Company, Inc. (CKIN); and Vermilion Valley Railroad Company, Inc. (VVRC), (collectively the Target Railroads).³

¹ The verified notice states that G&A is wholly owned by MIP Rail, which is wholly owned by MIP V. MIP V is controlled by its general partner, MIP GP. (Verified Notice 4.)

² See MB Rail IB, LLC—Acquis. of Control Exemption—Chesapeake & Ind. R.R., FD 36413 (STB served Sept. 10, 2021).

³ Camp Chase operates approximately 14 miles of rail line in Ohio. (Verified Notice 4); see also Camp Chase Rail—Acquis. & Operation Exemption—Camp Chase Ry., FD 36414 (STB served July 1, 2020). CKIN operates approximately 28 miles of rail line in northwestern Indiana. (Verified Notice 4); see also Chesapeake & Ind. R.R.—Amended Operation Exemption—Town of North Judson, Ind., FD 36147 (STB served Oct. 20, 2017). VVRC operates approximately 8.4 miles of track (including approximately 7.81 main line miles) in east-central Illinois and west-central Indiana. (Verified Notice 4); see also Vermilion Valley R.R.—Operation Exemption—FNG Logistics Co., FD 34340 (STB served May 16, 2003) & Vermilion Valley R.R.—Lease & Operation Exemption—CSX Transp., Inc., FD 36350 (STB served Oct. 18, 2019).

The verified notice states that, pursuant to a Purchase Agreement dated March 17, 2023,⁴ G&A has agreed to acquire from MBR IB 100% of the equity interests of the Target Railroads. Currently, G&A directly controls, and MIP GP, MIP V, and MIP Rail indirectly control, Grenada Railroad, LLC (GRYR), and Florida, Gulf & Atlantic Railroad, LLC (FG&A).⁵ (Verified Notice 3.)

MIP GP states that: (1) the Target Railroad lines, GRYR, and FG&A do not connect with one another; (2) the proposed transaction is not part of a series of anticipated transactions that would connect the Target Railroads, GRYR, or FG&A with each other or with any railroad in their corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed transaction is 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 April 21, 2023, the effective date of the exemption (30 days after the verified notice was filed).

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.

⁴ Public and confidential versions of the Purchase Agreement were filed with the verified notice. The confidential version was submitted under seal concurrently with a motion for protective order, which is addressed in a separate decision.

⁵ See Macquarie Infrastructure Partners V GP, LLC—Acquis. of Control Exemption—Grenada R.R. & Fla., Gulf & Atl. R.R., FD 36566 (STB served Dec. 10, 2021 & Apr. 7, 2022).

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 April 14, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36685, should 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, a copy of each pleading must be served on MIP GP's representative, Terence M. Hynes, Sidley Austin LLP, 1501 K Street, N.W., Washington, DC 20005.

According to MIP GP, 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: April 4, 2023.

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