



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36294]

TNW Corporation—Continuance in Control Exemption—Midwestern Railway Services, Corporation

TNW Corporation (TNW), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Midwestern Railway Services, Corporation (MRS) upon MRS's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in Midwestern Railway Services, Corp.—Operation Exemption—Perry County Port Authority, Docket No. FD 36293. In that proceeding, MRS seeks an exemption under 49 CFR 1150.31 to operate approximately 20.6 miles of rail line between milepost 1.8 at Tell City, Ind., and milepost 22.4 at Lincoln City, Ind.

The earliest this transaction may be consummated is June 2, 2019, the effective date of the exemption (30 days after the verified notice was filed).

TNW will continue in control of MRS upon MRS's becoming a Class III rail carrier, while remaining in control of the following Class III rail carriers that operate rail lines in Texas: Texas and North Western Railway Company; Texas, Gonzales & Northern Railway Company; and Texas Rock Crusher Railway Company.

TNW states that: (1) the rail line to be operated by MRS does not connect with any lines of any other TNW-controlled rail carriers; (2) the proposed continuance in control of MRS is not part of a series of anticipated transactions that would connect the line to be operated by MRS with the rail lines of any other TNW-controlled carrier; and

(3) the transaction does not involve a Class I rail carrier. The proposed transaction is, therefore, exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 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. However, 49 U.S.C. 11326(c) 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 of 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. Stay petitions must be filed no later than May 24, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36294, 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 TNW's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

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

Decided: May 13, 2019.

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

Kenyatta Clay,

Clearance Clerk.

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