



SURFACE TRANSPORTATION BOARD

[Docket No. FD 36413 (Sub-No. 1)]

Midwest & Bluegrass Rail, LLC—Control Exemption—Vermilion Valley Railway Company, Inc., Camp Chase Rail, LLC, Youngstown & Southeastern Rail, LLC, Chesapeake & Indiana Railroad Company

Midwest & Bluegrass Rail, LLC (MB Rail), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to control Vermilion Valley Railway Company, Inc., Camp Chase Rail, LLC, Youngstown & Southeastern Rail, LLC, and Chesapeake & Indiana Railroad Company (collectively, the IB Carriers).

MB Rail states that it controls the IB Carriers through a management agreement, under which it provides day-to-day management services and oversight. (See Verified Notice 1-3; see also *id.*, Ex. A at 1, 5 (management agreement became effective on January 1, 2021).) A related entity (MB Rail IB, LLC) sought and obtained Board authorization for its control of the IB Carriers in 2020, but MB Rail did not. See MB Rail IB, LLC—Acquis. & Continuance in Control Exemption—Chesapeake & Ind. R.R., FD 36413 (STB served July 1, 2020). MB Rail now seeks after-the-fact authorization for its earlier acquisition of control.

The exemption will become effective on September 25, 2021 (30 days after the verified notice was filed).

According to the verified notice of exemption, MB Rail currently controls only the four IB Carriers. However, in a notice that is being served concurrently in Midwest & Bluegrass Rail—Control Exemption—TransKentucky Transportation Railroad, Docket No. FD 36530, MB Rail is also being authorized to control TransKentucky

Transportation Railroad, Inc. (TransKentucky).¹

MB Rail represents that: (1) the IB Carriers do not connect to one another; (2) the transaction is not part of a series of anticipated transactions that would connect the IB Carriers with the rail lines of any carriers in MB Rail's corporate family; 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 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 for stay must be filed no later than September 17, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36413 (Sub-No. 1), should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, one copy of each pleading must be served on MB Rail's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to MB Rail, this action is categorically excluded from environmental

¹ In that docket, MB Rail states that the rail line owned and operated by TransKentucky does not connect to any of the IB Carriers. MB Rail Verified Notice 1, Aug. 27, 2021, Midwest & Bluegrass Rail—Control Exemption—TransKentucky Transp. R.R., FD 36530.

review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

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

Decided: September 7, 2021.

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

Jeffrey Herzig,

Clearance Clerk.

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