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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36402]

Fortress Investment Group LLC—Exemption for Intra-Corporate Family Transaction—Ohio River Partners Shareholder LLC & Katahdin Railcar Services LLC

Fortress Investment Group LLC (Fortress), for the benefit of Fortress Transportation and Infrastructure Investors LLC (FTAI), Ohio River Partners Shareholder LLC (ORPS), a Class III carrier, and Katahdin Railcar Services LLC (KRS), a noncarrier (collectively, the Parties),¹ filed a verified notice of exemption for an intra-corporate family transaction under 49 C.F.R. § 1180.2(d)(3), which exempts from the prior approval requirements of 49 U.S.C. § 11323 “[t]ransactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.” 49 C.F.R. § 1180.2(d)(3).

Under the proposed transaction, KRS will lease from ORPS a 12.2-mile rail line between milepost 60.5 at or near Powhatan Point, Ohio, and milepost 72.7 at or near Hannibal, Ohio (the Omal Line), thereby becoming a Class III rail carrier.²

¹ The verified notice states that FTAI, which is managed by an affiliate of Fortress, indirectly owns a majority equity interest in ORPS and also indirectly owns KRS. FTAI, ORPS, and KRS all are Delaware limited liability companies.

² In 2016, Ohio River Partners LLC (ORP) obtained an exemption to acquire and operate the Omal Line. See Ohio River Partners LLC—Acquis. & Operation Exemption—Hannibal Dev., LLC, FD 35984 (STB served Apr. 1, 2016). In 2017, ORP was authorized to be merged into its corporate parent, ORPS. See Ohio River Partners Shareholders LLC—

The notice states that ORPS satisfies its common carrier obligation by engaging Central Maine & Quebec Railway US, Inc. (CMQR), to operate the Omal Line on a contract basis. The Parties state that ORPS affiliate KRS will operate the Omal Line upon the June 30, 2020 termination of the contract between OPRS and CMQR.³ According to the Parties, the transaction will facilitate an orderly transition of rail operations and provide for uninterrupted rail service to customers located on and along the Omal Line. The notice states that KRS intends to offer employment to the same CMQR crews that currently operate trains over the Omal Line. Upon consummation of the transaction, KRS will acquire the right and common carrier obligation to operate the Omal Line pursuant to the lease between ORPS and KRS.

Unless stayed, the exemption will be effective on May 30, 2020 (30 days after the verified notice was filed). The Parties state that they intend to consummate the proposed transaction as soon as practicable after that date.

The Parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(3).

Exemption for Intra-Corporate Family Transaction—Ohio River Partners, LLC, FD 36152 (STB served Dec. 22, 2017).

³ The notice states that FTAI sold CMQR to Soo Line Corporation, an indirect wholly owned subsidiary of Canadian Pacific Railway Company (CP), and that CMQR is no longer an affiliate of ORPS. CP's control of CMQR was authorized in Soo Line Corp.—Control—Central Maine & Quebec Railway US, FD 36368 (STB served May 4, 2020).

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. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III rail carriers.

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 May 22, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36402, 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, one copy of each pleading must be served on the Parties' representative, Terence M. Hynes, Sidley Austin LLP, 1501 K St, N.W., Washington, DC 20005.

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

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

Decided: May 11, 2020.

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