

50775

SERVICE DATE – MAY 21, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36515]

Southwest Pennsylvania Railroad Company—Acquisition Exemption—Lines of
Westmoreland County Industrial Development Corporation

Southwest Pennsylvania Railroad Company (SWP), a Class III rail carrier,¹ has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to acquire from Westmoreland County Industrial Development Corporation (WCIDC) approximately 43.34 miles of rail line in Fayette and Westmoreland Counties, Pa., as follows: (1) from milepost 0.05 in Greensburg, Pa., through milepost 2.5 at County Home Junction and milepost 17.54 at the Westmoreland/Fayette County border near Everson to the end of track at milepost 23.8 in Bullskin, Pa., a distance of approximately 23.75 miles; (2) from the connection with Norfolk Southern Railway Company at milepost 3.9 in Greensburg, Pa., to milepost 0.0 at County Home Junction (milepost 2.5 on the first line above), a distance of approximately 3.9 miles; (3) the Yukon Branch from milepost 0.0 at Hunker, Pa., to the end of track at milepost 3.5 at Waltz, Pa., a distance of approximately 3.5 miles; (4) the Mt. Pleasant Sub from milepost 3.31 near Everson, Pa., to the end of track at approximately milepost 15.3 at Westmoreland Yard near Mount Pleasant, Pa., a

¹ The verified notice states that SWP is a wholly owned subsidiary of Carload Express, Inc., a noncarrier holding company that also controls two other Class III rail carriers operating in Pennsylvania, Maryland, Delaware, and Virginia. See Carload Express, Inc.—Continuance in Control Exemption—Delmarva Cent. R.R., FD 36072 (STB served Dec. 2, 2016).

distance of approximately 11.99 miles, including certain yard tracks and a 0.58-mile spur track at Westmoreland Yard;² and (5) the W&LE Connector from the connection with SWP at milepost 0.05 to the connection with Wheeling & Lake Erie Railway Company at milepost 0.25 near Everson, Pa., a distance of approximately 0.20 miles (the Lines). According to the verified notice, SWP has leased and operated the Lines since 1995.³

The verified notice states that SWP and WCIDC have executed a Purchase and Sale Agreement dated April 23, 2021, providing for SWP's acquisition of the Lines.

SWP certifies that its projected annual revenues as a result of this transaction will not result in SWP's becoming a Class II or Class I rail carrier but that its annual revenues exceed \$5 million. Pursuant to 49 C.F.R § 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it must, at least 60 days before the exemption is to become effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, SWP has filed a petition for waiver of the 60-day advance labor notice requirements. SWP's waiver request will be addressed in a separate

² SWP states that it previously acquired the segment of the Mt. Pleasant Sub from milepost 0.0 in Broad Ford, Pa., to milepost 3.31 in Southwest Pennsylvania Railroad—Acquisition Exemption—Laurel Hill Development Corp., FD 35584 (STB served Jan. 13, 2012).

³ See Sw. Pa. R.R.—Acquis. & Operation Exemption—Lines of Consolidated Rail Corp., FD 32692 (ICC served July 21, 1995); Sw. Pa. R.R.—Lease & Operation Exemption—Lines of Westmoreland Cnty. Indus. Dev. Corp., FD 32737 (ICC served July 21, 1995); Westmoreland Cnty. Indus. Dev. Corp.—Acquis. Exemption—Sw. Pa. R.R., FD 32767 (ICC served Nov. 3, 1995).

decision. The Board will establish the effective date of the exemption in its separate decision on the waiver request.

SWP also certifies that the proposed acquisition and operation of the Lines does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.

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 28, 2021.

All pleadings, referring to Docket No. FD 36515, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on SWP's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to SWP, 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: May 17, 2021.

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