

SERVICE DATE – JUNE 10, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36516

READING BLUE MOUNTAIN & NORTHERN RAILROAD COMPANY—ACQUISITION
EXEMPTION—CARBON COUNTY, PA.

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision waives a 60-day advance labor notice requirement and allows Reading Blue Mountain & Northern Railroad Company to acquire from Carbon County, Pa., approximately 19.5 miles of rail line in Carbon County on or after June 13, 2021.

Decided: June 10, 2021

On May 14, 2021, Reading Blue Mountain & Northern Railroad Company (RBMN), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to acquire from Carbon County, Pa. (the County), approximately 19.5 miles of rail line extending between milepost 19.5 near Tamenend, Schuylkill County, Pa., and milepost 0.0± at Packerton Jct., Carbon County, Pa. (the Line). According to the verified notice, the Line is currently operated by C&S Railroad Corporation (C&S), which leases the Line from the County. (Verified Notice 2.) The verified notice states that RBMN has entered into a Purchase and Sale Agreement with the County to acquire the Line and that, when RBMN acquires the Line, C&S's lease with County will be terminated and RBMN will enter into a new lease with C&S to permit C&S to continue to lease and operate the Line.² (Id. at 3.)

In its verified notice, RBMN certifies that its revenues currently exceed \$5 million. (Id. at 5.) Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require RBMN, at least 60 days before the exemption becomes effective, to post a notice of its intent to undertake the proposed transaction setting forth certain information 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

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² This transaction is related to a concurrently filed verified notice of exemption related to C&S's lease with RBMN. C&S R.R.—Lease & Operation Exemption—Reading Blue Mountain & N. R.R., FD 36517 (STB served May 28, 2021).

employees on the affected lines, and certify to the Board that it has done so. However, RBMN has requested a waiver of those notice requirements. (Verified Notice 6-7.)

In its request for waiver, RBMN argues that the labor notice requirements are unnecessary because the proposed transaction would not result in changes in carrier operations of the Line and C&S would continue to be the lessee operator of the Line. (Verified Notice 6.) Furthermore, RBMN states that no County employees have ever performed work on the Line. (Id.) No opposition to this waiver request has been filed.

Notice of RBMN's acquisition exemption was served and published in the Federal Register on May 28, 2021 (86 Fed. Reg. 28,924). The published notice announced that the Board would establish the effective date of the exemption in a separate decision on the waiver request.

DISCUSSION AND CONCLUSIONS

The purpose of the notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation. Because the record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirement here, it does not appear that the purpose behind the requirements would be thwarted if the requested waiver is granted in this case.

The record indicates that C&S will continue to be the operating lessee of the Line following the sale to RBMN, as it has been under the County's ownership, and that there would be no post-transaction changes in C&S's operations. Moreover, the verified notice states that no County employees work, or have ever worked, on the Line. Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. Accordingly, RBMN's acquisition exemption, unless stayed, will become effective on June 13, 2021, the effective date under the Board's rules absent the notice requirement. See, e.g., N.C. & Va. R.R., Chesapeake & Albemarle R.R. Div.—Lease Amendment & Operation Exemption Including Interchange Commitment—Norfolk S. Ry., FD 36252, slip op. at 2 n.3, 3 (STB served Dec. 14, 2018).

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. RBMN's request for waiver is granted.
2. RBMN's exemption will be effective on June 13, 2021, unless stayed.
3. This decision is effective on its date of service.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.