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SERVICE DATE – AUGUST 25, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36532]

Finger Lakes Railway Corp.—Continuance in Control Exemption—Midcoast
Railservice, Inc.

Finger Lakes Railway Corp. (FGLK), a Class III rail carrier, has filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of Midcoast Railservice, Inc. (Midcoast), a noncarrier, upon Midcoast's becoming a rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in Midcoast Railservice, Inc.—Change of Operators Exemption—Central Maine & Quebec Railway, Docket No. FD 36531, in which Midcoast seeks to assume operations over approximately 58.68 miles of rail line currently operated by Central Maine & Quebec Railway US, Inc., in Cumberland, Knox, Lincoln, and Sagadahoc Counties, Me.

The transaction may be consummated on or after September 8, 2021, the effective date of the exemption (30 days after the verified notice was filed).

According to the verified notice of exemption, FGLK currently controls the Ontario Central Railroad Corp., a Class III carrier operating solely in the state of New York.¹

FGLK represents that: (1) the rail line to be leased and operated by Midcoast

¹ See Finger Lakes Ry.—Control Exemption—Ontario Cent. R.R., FD 35062 (STB served Oct. 1, 2007).

does not connect with the rail lines of any of the rail carriers in FGLK's corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the line to be operated by Midcoast with the rail lines of any carriers in FGLK'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 C.F.R. § 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 1, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36532, 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 FGLK's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

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

49 C.F.R. § 1105.8(b).

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

Decided: August 20, 2021.

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