

50942

SERVICE DATE – SEPTEMBER 10, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36530]

Midwest & Bluegrass Rail, LLC—Control Exemption—TransKentucky Transportation Railroad, Inc.

Midwest & Bluegrass Rail, LLC (MB Rail), a noncarrier, has filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to acquire control of TransKentucky Transportation Railroad, Inc. (TransKentucky).

MB Rail states that TransKentucky owns and operates a rail line in Kentucky. MB Rail originally sought authorization to control TransKentucky in another docket, Midwest & Bluegrass Rail, LLC—Control Exemption—TransKentucky Transportation Railroad, Docket No. FD 36475. On August 26, 2021, MB Rail filed a motion to withdraw the verified notice in Docket No. FD 36475.

The transaction may be consummated on or after September 26, 2021, the effective date of the exemption (30 days after the verified notice was filed).

According to the verified notice of exemption, MB Rail currently controls four Class III carriers: Vermilion Valley Railroad Co., Inc.; Camp Chase Rail, LLC; Youngstown & Southeastern Rail, LLC; and Chesapeake & Indiana Railroad Co., Inc. (collectively, the IB Carriers).¹

¹ MB Rail is receiving after-the-fact authorization to control the IB Carriers in a notice of exemption being served concurrently in Midwest & Bluegrass Rail, LLC—Control Exemption—Vermilion Valley Railway, FD 36413 (Sub-No. 1).

The verified notice indicates that: (1) the rail line owned and operated by TransKentucky does not connect with the rail lines of any of the rail carriers in MB Rail's corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the rail line owned and operated by TransKentucky 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 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 17, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36530, 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

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: September 7, 2021.

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