

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36549]

AppleAtcha Land, LLC—Acquisition and Operation Exemption—Vaughan Railroad Company

AppleAtcha Land, LLC (AppleAtcha), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Vaughan Railroad Company (Vaughan), and operate approximately 14 miles of rail line between milepost 7.5 near Belva, W. Va., and milepost 22.0 on Twentymile Creek, northeast of Vaughan, W. Va., in Nicholas and Fayette Counties, W. Va. (the Line).

The verified notice states that AppleAtcha and its affiliates have entered into a purchase and sale agreement with Vaughan and Vaughan's affiliates under which AppleAtcha will purchase the Line and certain other assets.¹ The verified notice states that, while the Line has not been used since 2012, AppleAtcha intends to provide service over the Line or contract with a third party should a customer require service.²

¹ The verified notice states that Southeastern Land, LLC previously received Board authority to acquire and operate the Line, see Se. Land, LLC—Acquis. & Operation Exemption—Vaughan R.R., FD 36055 (STB served Aug. 24, 2016), but that, for unrelated business reasons, the transaction was never consummated and the Line is still owned by Vaughan.

² The verified notice notes that the Line is subject to a trackage rights agreement with CSX Transportation, Inc., and a separate trackage rights agreement with Norfolk Southern Railway. See CSX Transp., Inc.—Trackage Rights Exemption—Vaughan R.R., FD 32695 (ICC served May 30, 1995); Consol. Rail Corp.—Trackage Rights Exemption—Vaughan R.R., FD 32670 (ICC served May 3, 1995).

AppleAtcha certifies that its projected annual revenues as a result of this transaction will not exceed the maximum revenue of a Class III rail carrier and will not exceed \$5 million. AppleAtcha also certifies that the proposed transaction does not contain any provisions that would prohibit Vaughan from interchanging traffic with a third party or limit AppleAtcha's ability to interchange traffic with a third-party.

The earliest this transaction may be consummated is November 17, 2021, the effective date of the exemption (30 days after the verified notice was filed).

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 November 10, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36549, 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 AppleAtcha's representative, Andrew Fleischman, Kaplan Johnson Abate & Bird, LLP, 710 West Main Street, 4th Floor, Louisville, KY 40202.

According to AppleAtcha, 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: October 29, 2021.

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