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SERVICE DATE – NOVEMBER 10, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36551]

OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC—Continuance in Control Exemption—Missouri Eastern Railroad, LLC

OPSEU Pension Plan Trust Fund (OPTrust), Jaguar Transport Holdings, LLC (JTH), and Jaguar Rail Holdings, LLC (JRH, and collectively with OPTrust and JTH, Jaguar), all noncarriers, have filed a verified notice of exemption under 49 C.F.R.

§ 1180.2(d)(2) to continue in control of Missouri Eastern Railroad, LLC (MER), a noncarrier established by Jaguar to acquire a railroad line (and related, incidental overhead trackage rights) in Missouri, upon MER's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in Missouri Eastern Railroad—Acquisition & Change of Operator Exemption—V and S Railway, Docket No. FD 36550. In that proceeding, MER has filed a verified notice of exemption pursuant to 49 C.F.R. § 1150.31 to acquire: (1) from V and S Railway, LLC, an approximately 42.89-mile rail line between milepost 19.0 near Vigus, Mo., and milepost 61.89 near Union, Mo.; and (2) incidental overhead trackage rights over a rail line owned by Union Pacific Railroad Company between milepost 19.0 near Vigus and milepost 10.3 at Rock Island Junction, Mo.

Jaguar states that it will continue in control of MER upon MER's becoming a Class III rail carrier. According to the verified notice, OPTrust indirectly controls JTH,

which currently controls, indirectly: three Class III railroads directly controlled by JRH—Southwestern Railroad, Inc., Texas & Eastern Railroad, LLC, and Wyoming and Colorado Railroad, Inc., (WYCO) (which also does business under the name Oregon Eastern Railroad); two Class III railroads indirectly controlled by JRH through WYCO—Cimarron Valley Railroad, L.C., and Washington Eastern Railroad, LLC; and one Class III railroad indirectly controlled by JTH through its subsidiary Jaguar Transport, LLC—West Memphis Base Railroad, L.L.C. The lines of the rail carriers controlled by JTH and JRH are located in Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, Oregon, and Washington.

Jaguar states that: (1) the Line does not connect with any other rail lines operated by carriers controlled by JTH or JRH and none of those rail lines connect with each other; (2) the continuance in control transaction is not part of a series of anticipated transactions that would connect the Line with any other rail lines in the JTH or JRH corporate families or that would connect any of those rail lines with each other; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 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.

The earliest this transaction may be consummated is November 24, 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 to stay must be filed no later than November 17, 2021.

All pleadings, referring to Docket No. FD 36551, 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 Jaguar's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to Jaguar, this action is 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)(1).

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

Decided: November 5, 2021.

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