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SERVICE DATE – DECEMBER 23, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36504]

Fox Valley & Lake Superior Rail System, L.L.C.—Acquisition and Operation

Exemption—Lines of Wisconsin Central Ltd. in the State of Wisconsin

Fox Valley & Lake Superior Rail System, L.L.C. (Fox System),¹ a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire and operate approximately 328.52 miles of active rail lines and 180.75 miles of rail line over which discontinuance of service previously had been authorized, totaling approximately 509.27 miles (the Lines) owned by Wisconsin Central Ltd. (WCL). The Lines include the Southern Cluster (41.88 miles), the Green Bay Cluster (32.33 miles), the Appleton Cluster (82.32 miles), and the Northern Cluster (352.74 miles), all in the State of Wisconsin.

The Southern Cluster consists of (1) the Eden Spur extending from Eden, Wis., at milepost 138.7, to Fond du Lac, Wis., at milepost 146.04, a distance of approximately 7.34 miles; (2) the West Bend Subdivision extending from Granville, Wis., at milepost 99.5, to West Bend, Wis., at milepost 114.42, a distance of approximately 14.92 miles; and (3) the Saukville Subdivision extending from Mill (North Milwaukee),

¹ Fox System is an indirectly controlled subsidiary of Watco Holdings, Inc. (Watco Holdings), a noncarrier Delaware limited liability holding company.

Wis., at milepost 95.18, to Saukville, Wis., at milepost 114.8, a distance of approximately 19.62 miles.

The Green Bay Cluster consists of (1) the Denmark Spur extending from Denmark, Wis., at milepost 97.75, to Green Bay, Wis., at milepost 113.28, a distance of approximately 15.53 miles; and (2) the Luxemburg Spur extending from Green Bay at milepost 2.1, to Luxemburg, Wis., at milepost 18.9, a distance of approximately 16.8 miles.

The Appleton Cluster consists of (1) the Shawano Subdivision extending from Appleton, Wis., at milepost 358.18, to Shawano, Wis., at milepost 314.08, a distance of approximately 44.1 miles; (2) the New London Spur extending from Appleton at milepost 121.6, to New London, Wis., at milepost 141.0 and from New London at milepost 38.98, to Manawa, Wis., at milepost 50.3, a total distance of approximately 30.72 miles;² (3) the Kimberly Spur extending from Appleton at milepost 121.5, to Kaukauna, Wis., at milepost 114.0, a distance of approximately 7.5 miles.³

The Northern Cluster consists of (1) a portion of the Valley Subdivision extending from Rothschild, Wis., at milepost 85.0, to Tomahawk, Wis., at milepost 133.09, and from Tomahawk at milepost 133.49, to Bradley, Wis., at milepost 138.42, a distance of approximately 53.02 miles, as well as trackage rights by assignment over Tomahawk Railway, Limited Partnership, between milepost 133.09 and milepost 133.49 at

² In 2017, WCL discontinued service over the line from New London to Manawa. See Wis. Cent. Ltd.—Discontinuance of Serv. Exemption—in Waupaca Cnty., Wis., AB 303 (Sub-No. 48X) (STB served Aug. 31, 2017).

³ Fox System will also acquire 0.1 miles of incidental trackage rights extending between milepost 212.9 and milepost 213.0 on WCL's Fox River Subdivision to access the Kimberly Spur.

Tomahawk;⁴ (2) the “Wausau Pocket” trackage at Wausau, Wis., from Kelly, Wis., at milepost 17.4, to Wausau at milepost 27.4, and from Kelly at milepost 0.0, to Schofield, Wis., at milepost 1.9, a total distance of approximately 11.9 miles;⁵ (3) an undivided one-half interest (with WCL) in the portion of the Valley Subdivision extending from Mosinee, Wis., at milepost 77.0, to Rothschild at milepost 85.0, a distance of approximately 8.0 miles;⁶ (4) a portion of the Bradley and Pembine Subdivisions extending from Tony, Wis., at milepost 138.0, to Goodman, Wis., at milepost 269.0, a distance of approximately 131.0 miles;⁷ (5) the Ashland Subdivision extending from Prentice, Wis., at milepost 343.3, to Ashland, Wis., at milepost 434.49, a distance of approximately 91.19 miles;⁸ (6) the White Pine Subdivision extending from Marengo Jct., Wis., at milepost 332.39, to the Michigan/Wisconsin border at milepost 302.36, a

⁴ See Wis. Cent. Ltd.—Trackage Rights Exemption—Tomahawk Ry., FD 33359 (STB served Mar. 25, 1997).

⁵ See Wis. Cent. Ltd.—Acquis. Exemption—Union Pac. R.R., 2 S.T.B. 218 (1997), rev’d in part sub nom. Ass’n of Am. R.Rs. v. STB, 162 F.3d 101 (D.C. Cir. 1998).

⁶ According to the verified notice, Soo Line Railroad Company (Soo Line) has trackage rights on this segment and will remain WCL’s tenant. See Wis. Cent. Ltd.—Exempt. Acquis. & Operation—Certain Lines of Soo Line R.R., FD 31102, slip op. at 5 (ICC served July 28, 1988). As part of the current proposed transaction, WCL will retain limited overhead trackage rights (with Soo Line as its tenant) over Fox System from milepost 85.0 at Rothschild to milepost 89.5 at Wausau Yard for the purpose of turning and servicing locomotives.

⁷ In 2017, WCL discontinued service over the line from Rhinelander to Goodman. See Wis. Cent. Ltd.—Discontinuance of Serv. Exemption—in Oneida & Marinette Cntys., Wis., AB 303 (Sub-No. 49X) (STB served Nov. 15, 2017). In 2020, it discontinued service over the line from Tony to Prentice. See Wis. Cent. Ltd.—Discontinuance of Serv. Exemption—in Rusk & Price Cntys., Wis., AB 303 (Sub-No. 54X) (STB served Jan. 10, 2020).

⁸ In 2018, WCL discontinued service over the line from Ashland to Park Falls, Wis. See Wis. Cent. Ltd.—Discontinuance of Serv. Exemption—in Ashland & Price Cntys., Wis., AB 303 (Sub-No. 50X) (STB served Oct. 18, 2018).

distance of approximately 30.03 miles;⁹ and (7) the Medford Subdivision extending from Spencer, Wis., at milepost 289.80, to Medford, Wis., at milepost 317.4, a distance of approximately 27.6 miles.

Fox System's acquisition is part of a larger transaction pursuant to which, in addition to Fox System's acquisition, (1) Grand Elk Railroad, Inc. (Grand Elk), a Class III carrier and Watco Holdings subsidiary, would acquire 142.64 miles of rail lines in Michigan owned by WCL,¹⁰ and (2) after Fox System acquires the Lines, Fox System would transfer the Eden Spur, the West Bend Subdivision, and the Saukville Subdivision to Wisconsin & Southern Railroad, L.L.C. (WSOR), a Class II subsidiary of Watco Holdings, for WSOR to operate as part of its system.¹¹

The effective date of the exemptions sought in Docket Nos. FD 36503, FD 36504, and FD 36505 was tolled to consider questions raised and solicit additional information. See Grand Elk R.R.—Acquis. Exemption—Lines of Wis. Cent. Ltd. in the State of Mich., FD 36503 et al. (STB served Apr. 27, 2021). In a decision served on December 20, 2021, the Board held that the exemptions in Docket Nos. FD 36503, FD 36504, and FD 36505 could proceed and granted the petition for exemption sought in Docket No.

⁹ In 2015, WCL discontinued service over the White Pine Subdivision, including the portion extending into Michigan. See Wis. Cent. Ltd.—Discontinuance of Serv. Exemption—in Ashland & Iron Cntys., Wis., & Gogebic & Ontonagon Cntys., Mich., AB 303 (Sub-No. 45X) (STB served Dec. 3, 2014).

¹⁰ See Grand Elk R.R.—Acquis. Exemption—Lines of Wis. Cent. Ltd. in the State of Michigan, Docket No. FD 36503.

¹¹ See Watco Holdings, Inc.—Exemption for Intra-Corp. Fam. Transaction—Fox Valley & Lake Superior Rail Sys., L.L.C., Docket No. FD 36505. Additionally, to continue in control of Fox System once it becomes a carrier, Watco Holdings filed a petition for exemption in Watco Holdings, Inc.—Continuance in Control Exemption—Fox Valley & Lake Superior Rail Sys., L.L.C., Docket No. FD 36506.

FD 36506. See Grand Elk R.R.—Acquis. Exemption—Lines of Wis. Cent. Ltd. in the State of Mich., FD 36503 et al. (STB served Dec. 20, 2021).

Fox System certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier. Pursuant to 49 C.F.R. § 1150.32(e), which applies “[i]f the projected annual revenue of the carrier to be created by a transaction under this exemption exceeds \$5 million,” Fox System certified on April 1, 2021, that notice of the transaction was posted at the workplaces of current WCL employees on the Lines and was being served on the national offices of the labor unions for those employees.

Fox System further certifies that the proposed transaction does not involve, and the purchase agreement does not include, any provision or agreement that would limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after December 31, 2021, the effective date of the exemption.

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 December 27, 2021.

All pleadings, referring to Docket No. FD 36504, 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 Fox System’s representative: David F. Rifkind, Stinson, LLP, 1775 Pennsylvania Avenue, N.W., Suite 800, Washington, DC 20006-4605.

According to Fox System, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and historic preservation reporting under 49 C.F.R. § 1105.8(b).

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

Decided: December 20, 2021.

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