

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36578]

R. J. Corman Railroad Company, LLC and R. J. Corman Railroad Group, LLC.—

Continuance in Control Exemption—Knoxville and Cumberland Gap Railroad, LLC

R. J. Corman Railroad Company, LLC (RJCRC), and R. J. Corman Railroad Group, LLC (RJCG),¹ both noncarrier holding companies, have filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Knoxville and Cumberland Gap Railroad, LLC (KXCG), a noncarrier controlled by Applicants, upon KXCG's becoming a Class III rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in Knoxville & Cumberland Gap Railroad—Acquisition & Operation Exemption with Interchange Commitment—Rail Lines of Norfolk Southern Railway in Anderson, Campbell, Claiborne, Grainger, Knox, & Union Counties, Tenn., Bell & Whitley Counties, Ky., & Lee County, Va., Docket No. FD 36577, in which KXCG seeks to acquire from Norfolk Southern Railway Company (NSR) various rail lines (via purchase or lease assignment) and trackage rights, totaling approximately 154.0 miles in length.²

¹ RJCRC is a wholly owned subsidiary of RJCG. RJCRC and RJCG are referred to together as Applicants.

² This total includes approximately 112.0 miles of NSR rail line that KXCG will acquire from NSR; 13.0 miles of lines currently leased by NSR from CSX Transportation, Inc. (CSXT), which lease will be assigned to KXCG; 6.3 miles of NSR trackage rights over a CSXT line, which trackage rights will be assigned to KXCG; and 22.7 miles of NSR line over which NSR will grant KXCG trackage rights.

The transaction may be consummated on or after February 24, 2022, the effective date of the exemption (30 days after the verified notice was filed).

According to the verified notice of exemption, Applicants currently control 18 Class III rail carriers, collectively operating in multiple states. For a complete list of these rail carriers and the states in which they operate, see Applicants' January 25, 2022 verified notice of exemption, available at www.stb.gov.

Applicants represent that: (1) KXCG will not connect with any other railroad in Applicants' corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect KXCG with any railroad in the Applicants' corporate family; 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.

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 February 17, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36578, 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 Applicants' representative, David A. Hirsh, Dentons US LLP, 1900 K Street, N.W., Washington, DC 20006.

According to Applicants, 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: February 7, 2022.

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