

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36655]

Genesee & Wyoming Inc.—Corporate Family Transaction Exemption

Genesee & Wyoming Inc. (GWI), a noncarrier holding company, filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) to exempt from the provisions of 49 U.S.C. § 11323 certain transactions within its corporate family.¹ According to GWI, it directly and indirectly controls 103 railroads across the United States, including the entities involved in the subject transactions.² GWI proposes to convert Chattahoochee Bay Railroad, Inc., a Delaware corporation, into Chattahoochee Bay Railroad LLC (CHAT LLC), a Delaware limited liability company. GWI will then contribute its membership interests in CHAT LLC down its organizational structure to GWI subsidiary Rail Partners, L.P., which also controls the Bay Line Railroad, L.L.C. (BAYL). This transaction will result in GWI indirectly controlling CHAT LLC. CHAT LLC will then be merged with and into BAYL, with BAYL remaining as the surviving Class III rail carrier. GWI also proposes to merge Fordyce and Princeton Railroad Company with and

¹ GWI filed a supplement on December 29, 2022.

² This tally does not include GWI's wholly owned subsidiary, Pittsburg & Shawmut Railroad, LLC d/b/a Berkshire & Eastern Railroad, which has received authority from the Board to operate Pan Am Southern LLC. See Pittsburg & Shawmut R.R.—Operation Exemption—Pan Am S. LLC, FD 36472 (Sub-No. 5) (STB served Apr. 14, 2022). GWI states that the operation exemption transaction has not yet been consummated.

into Arkansas Louisiana & Mississippi Railroad Company (ALM), with ALM remaining as the surviving Class III rail carrier.

GWI states that the transactions will reduce the number of legal entities within its corporate family, resulting in improved efficiencies by reducing overhead and duplication of accounting and IT services and potentially reducing its tax burden while retaining the same assets to serve customers.

Unless stayed, the exemption will be effective on January 20, 2023 (30 days after the verified notice was filed). GWI states that it intends to consummate the transactions on or about February 1, 2023. The verified notice states that the transactions will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the transactions are exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(3).

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. Because GWI controls four Class II carriers and 99 Class III carriers, any employees adversely affected by these transactions will be protected by the conditions required by 49 U.S.C. § 11326(a) and set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal, 360 I.C.C. 60 (1979).

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 January 13, 2023 (at least seven days before the exemption becomes effective).

All pleadings referring to Docket No. FD 36655 must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

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

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

Decided: January 3, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.