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SERVICE DATE – FEBRUARY 10, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36664]

CWW LLC—Continuance in Control—Yak Rail LLC

CWW LLC (CWW), a noncarrier, has filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of Yak Rail LLC (Yak Rail), upon Yak Rail's becoming a Class III carrier.

This transaction is related to a concurrently filed notice of modified certificate of public convenience and necessity in Yak Rail LLC—Modified Rail Certificate, Docket No. FD 36663, for Yak Rail to lease and operate a line of railroad owned by Yakima County, originating at BNSF Railway Company (BNSF) milepost 73.6 at Wesley Junction near Toppenish¹ and extending west 20.56 miles to White Swan (the Line), and an additional 1.63 miles of industrial spur near White Swan, for a total distance of 22.19 miles in Yakima County, Wash.²

This transaction may be consummated on or after February 26, 2023, the effective date of the exemption (30 days after the exemption is filed).

According to the verified notice, CWW is under the ownership and control of Paul Didelius, who also controls YCR; CCET LLC, a Class III carrier that operates a rail

¹ This point is also referred to as milepost 0.0. (See Verified Notice 3.)

² The Line was previously leased to YCR Corporation (YCR), a Class III carrier, pursuant to a modified rail certificate. See YCR Corp.—Modified Rail Certificate—in Yakima, Cnty., Wash., FD 35336 (STB served Jan. 15, 2010).

line in Ohio; and three Class III carriers—WRL LLC, RYAL LLC, and KET LLC—that operate rail lines in Washington.

CWW represents that: (1) the rail properties operated and controlled by CWW and its corporate affiliates do not physically connect, (2) there are no plans to acquire additional rail lines for the purpose of making a connection, and (3) the transaction does not involve a Class I carrier. Therefore, the 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 carriers. Because this transaction involves Class III carriers only, the Board may not impose labor protective conditions here.

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. Stay petitions must be filed no later than February 17, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36664, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing at 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be

served on CWW's representative, James H. M. Savage, 22 Rockingham Court,
Germantown, MD 20874.

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

Decided: February 7, 2023.

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