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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36700

**GRENADA RAILROAD, LLC
—ACQUISITION AND OPERATION EXEMPTION—
NORTH CENTRAL MISSISSIPPI REGIONAL RAILROAD AUTHORITY
AND GRENADA RAILWAY, LLC**

**PETITION FOR PARTIAL WAIVER OF THE
REQUIREMENTS OF 49 C.F.R. § 1150.42(E)**

EXPEDITED CONSIDERATION REQUESTED

**FILED
April 28, 2023
SURFACE
TRANSPORTATION BOARD**

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Dated April 28, 2023

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**PETITION FOR PARTIAL WAIVER OF THE
REQUIREMENTS OF 49 C.F.R. § 1150.42(E)**

Grenada Railroad, LLC (“GRR”) hereby petitions the Surface Transportation Board (“Board”) for a partial waiver of the 60-day employee notice requirements set forth at 49 C.F.R. § 1150.42(e) in connection with the transaction that is the subject of the Verified Notice of Exemption (the “Verified Notice”) filed in the above-captioned proceeding. That transaction will result in no operational changes on the subject rail lines. As there are no employees of the current owners on the affected lines, and GRR’s own employees will not be affected by GRR’s change from a lessee to an owner, allowing the proposed transaction to proceed after 30 days’ notice to GRR’s own employees fully satisfies any relevant purpose of 49 C.F.R. § 1150.42(e) in this context. The requested partial waiver is thus reasonable and appropriate.

As explained in the Verified Notice, GRR seeks Board authority to acquire and operate approximately 228 miles of rail lines in the state of Mississippi from the North Central Mississippi Regional Railroad Authority (“NCMRRA”) and Grenada Railway, LLC (“GRY”). Specifically, the lines to be acquired include: (i) an

approximately 175.4-mile rail line between Southaven, MS, and Canton, MS, along with certain side track and yard track (the “Grenada Line”); (ii) an approximately 11.42-mile branch line between a point of connection with the Grenada Line and Bruce Jct., MS (the “Water Valley Branch”); and (iii) an approximately 21.7-mile inactive branch line between a connection with the Grenada Line at Aberdeen Jct., MS, and Kosciusko, MS (the “Aberdeen Branch”) (collectively, the “Rail Lines”). GRY was authorized to acquire and operate the Grenada Line and the Water Valley Branch in 2009.¹ In 2015, NCMRRA acquired the stock and assumed control of GRY.² Also in 2015, GRR was authorized to lease and operate the Grenada Line and Water Valley Branch pursuant to a lease and operating agreement among NCMRRA, GRY, and GRR.³ GRR has operated the Grenada Line and Water Valley Branch since 2015 and is now seeking authority to acquire these lines, as well as the Aberdeen Branch, which is owned by NCMRRA.⁴

¹ *Grenada Ry.—Acquisition & Operation Exemption—Ill. Cent. R.R. & Waterloo Ry.*, Docket No. FD 35247 (STB served May 29, 2009).

² *See Ill. Co. Rail Road, LLC—Lease & Operation Exemption—N. Cent. Miss. Reg’l R.R. Auth. & Grenada Ry., LLC*, Docket No. FD 35940, slip op. at 1, n.1 (STB served July 9, 2015).

³ *Id.* at 1. GRR was formerly known as the Illinois Company Rail Road, LLC.

⁴ NCMRRA was authorized to acquire the Aberdeen Branch in 2018. *N. Cent. Miss. Reg’l R.R. Auth.—Acquisition & Operation Exemption—Miss. Dep’t of Transp.*, Docket No. FD 36182 (STB served Nov. 20, 2018). The Aberdeen Branch (also known as the Kosciusko Line) was in inoperable condition when it was acquired by NCMRRA and remains out of service. No active rail shippers are located on the branch. A short segment of the Aberdeen Branch, at its junction with the Grenada Line, has been used for car storage.

The annual revenues of GRR currently exceed \$5 million and are likely to do so following consummation of the transaction that is the subject of the Verified Notice.

The Board's rules provide that when the annual revenues of the acquiring Class III carrier exceed—or, as a consequence of the transaction before the Board, would exceed—\$5 million, the prospective Class III acquirer must post advance notice of the transaction (the “Employee Notice”) at the workplace of the transferor carrier's employees on the affected lines and serve the Employee Notice on the national office of each labor union representing the transferor carrier's affected employees.⁵ Absent a waiver of the Employee Notice requirement, a notice of exemption involving a transaction that is subject to that requirement will not become effective until 60 days after the Class III acquirer has certified to the Board its compliance with the posting and advance notice requirements.⁶

The purpose of the Employee Notice requirement is (1) to permit the acquiring carrier to “give notice of its general intentions in hiring a work force” and (2) to allow affected railroad employees to make informed decisions about the future of their employment and whether to seek employment with the acquiring carrier.⁷ The requirement was clearly focused on providing notice to a *seller's* employees in a line-

⁵ 49 C.F.R. § 1150.42(e).

⁶ *Id.*

⁷ *Acquisition of Rail Lines Under 49 U.S.C. 10901 & 10902—Advance Notice*, 2 S.T.B. 592, 597 (1997).

sale transaction.⁸ Here, no NCMRRA or GRY employees currently work on the subject Rail Lines; *indeed, neither NCMRRA nor GRY has any rail carrier employees*. Rather the Grenada Line and Water Valley Branch have been operated by GRR employees pursuant to lease since 2015. There are no NCMRRA or GRR employees currently involved in operating the Aberdeen Branch, which has been out of service since prior to NCMRRA's acquisition of that line. Thus, there are simply no employees of the sellers on the affected lines to whom notice could or logically would need to be given.

Following consummation of the transaction that is the subject of the Verified Notice in this proceeding, all operations on and along the Grenada Line and Water Valley Branch will continue to be performed as they have been, by existing GRR employees.⁹ Those employees are already employed by the buyer, GRR; unlike the employees who are the intended recipients of notice under 49 C.F.R. § 1150.42(e), they will not be “forced to make career choices—such as whether they will accept employment on the new carrier or retain whatever rights they have to exercise seniority or later be reemployed on the seller’s lines.”¹⁰

⁸ See *id.* at 592 (“General notice would be given by the acquiring entity to the *seller’s* employees working on the line at issue”) (emphasis added); *id.* at 599 (“The buyer’s obligation to the *seller’s* employees is an informational one, and does not go beyond that limited purpose.”) (emphasis added).

⁹ GRR employees are not represented by a labor union.

¹⁰ *Id.* at 597.

Nevertheless, on April 28, 2023, GRR posted notice of the proposed transaction at the workplace of GRR's existing employees on the Rail Lines and certified that action to the Board.

In these circumstances, the Board has previously found that a complete waiver of the advance notice requirement is appropriate.¹¹ As noted, GRR has gone further than this by posting notice of the proposed transaction at the workplace of its own employees on the Rail Lines. In such instances, the Board has alternatively found that a shortening of the notice period is warranted and appropriate.¹² Here, GRR seeks a partial waiver of the 60-day notice period so that the transaction can proceed after 30 days' notice to GRR's own employees.

GRR requests expedited consideration of this petition and grant of the requested partial waiver on or before May 28, 2023, the effective date under the

¹¹ See, e.g., *Kanawha River R.R.—Lease Renewal & Operation Exemption with Interchange Commitment—Norfolk S. Ry.*, Docket No. FD 36028 (Sub-No. 1), slip op. at 2 (STB served Jan. 13, 2023); *Buckingham Branch R.R.—Acquisition & Operation Exemption with Interchange Commitment—CSX Transp., Inc.*, Docket No. FD 34495 (Sub-No. 1), slip op. at 2 (STB served Sept. 28, 2021); *Wis. & S. R.R.—Acquisition & Operation Exemption—Soo Line R.R.*, Docket No. FD 36452, slip op. at 3 (STB served Dec. 15, 2020); *Ark.-Okla. R.R.—Lease & Operation Exemption Including Interchange Commitment—Union Pac. R.R.*, Docket No. FD 36411, slip op. at 2 (STB served Jul. 31, 2020); *Hainesport Indus. R.R.—Lease & Operation Exemption—Hainesport Secondary, LLC*, Docket No. FD 36185, slip op. at 3 (STB served Jul. 3, 2018).

¹² See *Sw. Pa. R.R.—Acquisition Exemption—Lines of Westmoreland Cnty. Indus. Dev. Corp. [Request for Waiver of 49 C.F.R. § 1150.42(e)]*, Docket No. FD 36515 (STB served June 2, 2021); *Allegheny Valley R.R.—Acquisition Exemption—Lines of CSX Transp., Inc. [Request for Waiver of 49 C.F.R. § 1150.42(e)]*, Docket No. FD 36282 (STB served May 14, 2019); *Portland & W. R.R.—Acquisition & Operation Exemption—Union Pac. R.R.*, Docket No. FD 34792 (STB served Nov. 22, 2006).

Board's rules absent the notice requirement. This is consistent with prior practice and will allow the parties to proceed with the proposed transaction on the schedule otherwise contemplated by the Board's regulations. Given the absence of NCMRRA and GRY employees on the Rail Lines or any effect on GRR's own employees, expedited consideration of this partial waiver request is warranted.

* * *

For the foregoing reasons, GRR respectfully requests that the Board partially waive the application of the 60-day Employee Notice requirement set forth at 49 C.F.R. § 1150.42(e).

Respectfully submitted,

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