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SERVICE DATE – JUNE 21, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1333X]

Cleveland & Cuyahoga Railway, LLC—Discontinuance of Service Exemption—in
Cuyahoga County, Ohio

On June 1, 2023, Cleveland & Cuyahoga Railway, LLC (CCR), a Class III rail carrier, filed a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to discontinue service over approximately 10.4 miles of rail line owned by Wheeling & Lake Erie Railway Company (WLER) in Cuyahoga County, Ohio, extending from milepost 15.5 at Falls Junction in Glenwillow, Ohio, to milepost 5.1 in Cleveland, Ohio (the Line). The Line traverses U.S. Postal Service Zip Codes 44105, 44113, 44127, 44128, 44131, 44137, 44139, and 44146.

CCR states that it provided service on the Line pursuant to a lease with WLER,¹ which the parties terminated by mutual agreement effective May 31, 2023. (Pet. 4.) According to CCR, WLER has resumed rail operations over the Line as a common carrier. (Id.) CCR states that there currently is one shipper on the Line, which will continue to be served by WLER. (Id. at 8.)

¹ See Cleveland & Cuyahoga Ry.—Change in Operator Exemption Containing Interchange Commitment—Cleveland Com. R.R., FD 36287 (STB served Aug. 15, 2019) (authorizing CCR to replace Cleveland Commercial Railroad Company, LLC, as lessee and operator of the Line).

CCR states that, based on the information in its possession, the Line does not contain federally granted rights-of-way and that any documentation in its possession will be made available to those requesting it. (Id. at 4.)

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by September 19, 2023.

Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during any subsequent abandonment, this discontinuance does not require an environmental review. See 49 C.F.R. §§ 1105.6(c)(5), 1105.8(b).

Any offer of financial assistance (OFA) for subsidy under 49 C.F.R. § 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.² Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by June 30, 2023, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(1)(i).

All filings in response to this notice must refer to Docket No. AB 1333X and must be filed with the Surface Transportation Board either via e-filing on the Board's website

² The filing fee for OFAs can be found at 49 C.F.R. § 1002.2(f)(25).

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 CCR's representative, Karl Morell, Karl Morell & Associates, 440 1st Street, N.W., Suite 440, Washington, DC 20001. Replies to the petition are due on or before July 11, 2023.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0294. If you require accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

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

Decided: June 15, 2023.

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