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ENTERED
Office of Proceedings
November 20, 2023
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By Electronic Filing

Ms. Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street SW
Washington, DC 20423

Re: Docket No. AB 1336X
Katahdin Railcar Services LLC—Discontinuance of Service Exemption—In Monroe County, Ohio

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is a Petition for Exemption on behalf of Katahdin Railcar Services LLC. The filing fee for this matter has been tendered electronically via Pay.gov.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance with this matter.

Respectfully submitted,

/s/ Terence M. Hynes

Terence M. Hynes

*Counsel for Katahdin Railcar Services
LLC*

FILED
November 20, 2023
SURFACE
TRANSPORTATION BOARD
Attachment

FEE RECEIVED
November 20, 2023
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB 1336X

**KATAHDIN RAILCAR SERVICES LLC
—DISCONTINUANCE OF SERVICE EXEMPTION—
IN MONROE COUNTY, OHIO**

PETITION FOR EXEMPTION

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB 1336X

**KATAHDIN RAILCAR SERVICES LLC
—DISCONTINUANCE OF SERVICE EXEMPTION—
IN MONROE COUNTY, OHIO**

PETITION FOR EXEMPTION

Pursuant to 49 U.S.C. § 10502 and the Surface Transportation Board’s regulations at 49 C.F.R. parts 1121 and 1152, subpart G, Katahdin Railcar Services LLC (“KRS”) petitions the Board to exempt from the prior approval requirements of 49 U.S.C. § 10903 KRS’s discontinuance of lease operations over approximately 12.2 miles of railroad line between milepost 60.5 near Powhatan Point, Ohio, and milepost 72.7 near Hannibal, Ohio, as shown on the map attached as Exhibit A (the “Omal Line”).

Factual Background

KRS, a Class III rail carrier, was authorized to operate the Omal Line pursuant to a lease with the Omal Line’s former owner, Ohio River Partners Shareholder LLC (“ORPS”) in 2020.¹ On October 1, 2023, ORPS sold the Omal Line to East Ohio

¹ See Notice of Exemption Decision, *Fortress Invest. Grp. LLC—Exemption for Intra-Corp. Fam. Transaction—Ohio River Partners S’holder LLC & Katahdin Railcar Servs. LLC*, Docket No. FD 36402 (STB served May 15, 2020) (“KRS Lease”) (authorizing KRS to lease and assume the common carrier obligation to operate the Omal Line from ORPS); see also *Katahdin Railcar Servs. LLC—Change in Operators Exemption—Ohio Terminal Ry.*, Docket No. FD 36487 (STB served March 30, 2021)

Valley Railway LLC (“EOVR”). ORPS, KRS, and EOVR all are affiliates of FTAI Infrastructure Inc.² EOVR obtained Board authority to acquire and operate the Omal Line in *East Ohio Valley Railway—Acquisition & Operation Exemption—Ohio River Partners Shareholder LLC*, Docket No. FD 36682 (STB served March 31, 2023). Pursuant to that authority, EOVR acquired the line and commenced operations as of October 1, 2023, at which time KRS’s lease of the Omal Line was terminated.

As a result of the termination of its leasehold interest in the Omal Line and the commencement of operations by EOVR, KRS herein seeks authority to discontinue its own operations and end its common carrier obligation with respect to the Omal Line. The proposed transaction will effectuate a mutually-agreed, orderly transition from lease operations by KRS to owner operations by EOVR. The proposed discontinuance will not leave any Omal Line customer without access to railroad common carrier service, as all customers now have service via EOVR.

Because KRS has provided common carrier service on the Omal Line within the past two years, KRS is not eligible for the class exemption set forth at 49 C.F.R. § 1152.50. However, as discussed below, KRS’s petition satisfies the 49 U.S.C. § 10502 exemption criteria, and, thus, should be granted.

(authorizing KRS to assume the Ohio Terminal Railway Company’s operating rights and common carrier obligation to provide service to an industrial park located along the Omal Line).

² See *Fortress Inv. Grp. LLC—Continuance in Control Exemption—E. Ohio Valley Ry.*, Docket No. FD 36683 (STB served March 31, 2023); *KRS Lease*.

The Omal Line, which extends between milepost 60.5 near Powhatan Point, Ohio, and milepost 72.7 near Hannibal, Ohio, is located entirely in Monroe County, Ohio. The Omal Line traverses United States Postal Service ZIP Codes 43942 and 43915. The Omal Line includes the following stations: Omal, Clarington, and Powhatan Point. Based on information in KRS's possession, the Omal Line does not contain any federally granted rights-of-way. Any documentation in KRS's possession will be made available promptly to those requesting it.³

Petitioner's Representative

KRS is represented by:

Terence M. Hynes
Allison C. Davis
Matthew B. Cahill
Sidley Austin LLP
1501 K Street NW
Washington, DC 20005
(202) 736-8000
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Board Jurisdiction and Statutory Standard

The Board has jurisdiction over KRS's proposed discontinuance of service on the Omal Line pursuant to 49 U.S.C. § 10903. Generally, § 10903 requires a rail carrier to obtain formal Board authority under an application procedure to discontinue common carrier rail service. However, 49 U.S.C. § 10502(a) requires the Board to exempt a person, transaction, or service from the statutory and regulatory requirements otherwise applicable to a rail carrier when the Board determines that

³ See 49 C.F.R. § 1152.60(d).

(1) application of those requirements is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101 (the “RTP”); and (2) either (a) the transaction is of limited scope or (b) regulation is not needed to protect shippers from an abuse of market power.

A. *Application of 49 U.S.C. § 10903 Is Not Necessary to Carry Out the RTP.*

Detailed scrutiny of the proposed discontinuance under 49 U.S.C. § 10903 is not necessary to carry out the RTP. An exemption would obviate the need for the expensive and time-consuming process that a formal discontinuance application under 49 U.S.C. § 10903 and 49 C.F.R. part 1152 would require. Granting KRS’s petition is fully consistent with the RTP, as it will reduce barriers to exit, promote fair and expeditious regulatory decision-making, and result in the expeditious handling of this proceeding.⁴ The Board previously has granted discontinuance exemptions where, as here, a railroad is discontinuing operations over a leased rail line and the owner of the line will provide common carrier rail service instead.⁵

B. *The Transaction Is of Limited Scope.*

The proposed discontinuance is of limited scope. KRS seeks to discontinue lease operations over approximately 12.2 miles of line that have been acquired, and are now operated, by another common carrier (EOVR). The proposed transaction will

⁴ See 49 U.S.C. §§ 10101(2), (7), and (15).

⁵ See, e.g., *Kan. & Okla. R.R.—Discontinuance of Serv. Exemption—In Crowley, Pueblo, & Otero Cntys., Colo.*, Docket No. AB 853 (Sub-No. 4X), slip op. at 2 (STB served July 28, 2022); *C&NC R.R.—Discontinuance Exemption—In Wayne & Henry Cntys., Ind.*, Docket No. AB 1093 (Sub-No. 2X), slip op. at 2 (STB served Aug. 20, 2021).

effectuate a mutually-agreed, orderly transition from lease operations by KRS to owner operations by EOVR. No shipper will lose service (even temporarily) or otherwise be adversely affected by the discontinuance, because, pursuant to the authority granted in Docket No. FD 36682, EOVR commenced service contemporaneously with the termination of KRS's lease operations, and EOVR will have an ongoing common carrier obligation to customers on the Omal Line. Under these circumstances, KRS's discontinuance is of limited scope and impact.

C. *Regulation Is Not Necessary to Protect Shippers from Market Power Abuse.*

Because all current KRS shippers will continue to receive common carrier rail service provided by EOVR, KRS's proposed discontinuance will not result in any interruption of service, nor will it adversely affect any shipper served by the Omal Line. The Board has found that regulation is not necessary to protect shippers from an abuse of market power where the rail carrier owner of a rail line terminates the lease of another operator and provides uninterrupted service over the line, as long as no shipper will be without rail service.⁶ That is the situation here. The proposed discontinuance will not eliminate or reduce the rail service available to any shipper. Rather, the transaction will simply effectuate the orderly transfer of rail operations from KRS (as lessee) to EOVR (as the new owner of the Omal Line). To ensure that shippers are

⁶ See, e.g., *Gateway W. Ry.—Discontinuance of Serv. Exemption—In Jackson Cnty., Mo.*, Docket No. AB 566X, slip op. at 2 (STB served July 21, 2000) (“Because service is being continued by the owner of the line, regulation is not necessary to protect shippers from the abuse of market power.”).

fully aware of this proceeding, KRS is serving all active rail shippers located along the Omal Line with a copy of this petition.

Labor Protection

The Omal Line constitutes KRS's entire rail system. Accordingly, upon consummation of the proposed discontinuance, KRS will cease to be a rail common carrier. Although the Board has previously found that standard employee protective conditions need not be imposed in cases of entire system discontinuances, it has specified that this policy does not extend to situations where a corporate affiliate will continue substantially similar rail operations.⁷ Because KRS and EOVR are both controlled by FTAI Infrastructure Inc.,⁸ KRS expects that its discontinuance of service will be subject to the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

Environmental Impact Review

The proposed discontinuance is exempt from environmental and historic reporting requirements under 49 C.F.R. §§ 1105.6(c) and 1105.8(b) because KRS seeks

⁷ *Cent. Tex. & Colo. River Ry.—Discontinuance Exemption—In McCulloch, San Saba, Mills, & Lampasas Cntys., Tex.*, Docket No. AB 1272X, slip op. at 5, 9 (STB served Apr. 27, 2022) (citing *Honey Creek R.R.—Abandonment Exemption—In Henry Cnty., Ind.*, Docket No. AB 865X, slip op. at 2 (STB served Aug. 20, 2004)).

⁸ *See Fortress Inv. Grp. LLC—Exemption for Intra-Corp. Fam. Transaction—Ohio River Partners S'holder LLC*, Docket No. FD 36576 (STB served Feb. 4, 2022) (granting intra-corporate family transaction exemption for Fortress Transportation and Infrastructure Investors LLC to transfer its interests in KRS and EOVR's parent, Transtar, LLC, to FTAI Infrastructure Inc.).

only to discontinue service, which does not normally require a carrier to prepare and submit a combined environmental and historic report.⁹ Because KRS does not own the Omal Line, KRS will not engage in any salvage activities or disposal or alteration of historic properties upon obtaining discontinuance authority. Further, Board approval would be required for the Omal Line's owner (EOVR) to abandon service on the Omal Line. Consequently, no environmental or historic report is required in these circumstances.

Exhibits

A map of the Omal Line that meets the requirements of 49 C.F.R. § 1152.22(a)(4) is attached as Exhibit A.

A draft *Federal Register* notice in the form prescribed at 49 C.F.R. § 1152.60(c) is attached as Exhibit B.

A certificate of compliance with the newspaper publication requirements at 49 C.F.R. § 1105.12 is attached as Exhibit C.

A certificate of compliance with the service requirements at 49 C.F.R. § 1152.50(d)(1) is attached as Exhibit D.¹⁰

⁹ See, e.g., *City of Tacoma, Dep't of Pub. Utils.—Discontinuance of Serv. Exemption—In Pierce Cnty., Wash.*, Docket Nos. AB 1239 (Sub-No. 3X), AB 1328X, slip op. at 5 (STB served June 26, 2023) (“[B]ecause there will be an environmental review if abandonment is sought in the future, environmental review is unnecessary here.”); *Kan. & Okla. R.R.*, slip op. at 2-3 (same).

¹⁰ 49 C.F.R. § 1152.60(d).

* * *

For the foregoing reasons, KRS requests that the Board grant an exemption for KRS's discontinuance of service over the Omal Line.

Respectfully submitted,

/s/ Terence M. Hynes

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*Counsel for Katahdin Railcar Services
LLC*

November 20, 2023

EXHIBIT A: MAP
(49 C.F.R. § 1152.60(b))



EXHIBIT B: DRAFT FEDERAL REGISTER NOTICE
(49 C.F.R. § 1152.60(c))

STB Docket No. AB 1336X

Notice of Petition for Exemption to Discontinue Service

On November 20, 2023, Katahdin Railcar Services LLC (KRS), a Class III rail carrier, filed with the Surface Transportation Board 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 12.2 miles of rail line in Monroe County, Ohio, extending from milepost 60.5 near Powhatan Point, Ohio, to milepost 72.7 near Hannibal, Ohio (the Omal Line). The Omal Line traverses United States Postal Service ZIP Codes 43942 and 43915. The Omal Line includes following stations: Omal, Clarington, and Powhatan Point, Ohio.

According to KRS, the proposed discontinuance will effectuate an orderly transfer of rail operations from KRS, which previously operated the Omal Line pursuant to a lease, to East Ohio Valley Railway LLC (EOVR), which has acquired and now operates the Omal Line.

Based on the information in its possession, KRS states that the Omal Line does not contain federally granted rights-of-way. Any documentation in KRS's possession will be made available to those requesting it.

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 _____.

Because this proceeding involves a discontinuance of service on, and not an abandonment of, a rail line, interim trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during any subsequent abandonment of the Omal Line, this discontinuance does not require an environmental review.

Any offer of financial assistance (OFA) for subsidy under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption.

All filings in response to this notice must refer to Docket No. AB 1336X and must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on KRS's representative, Terence M. Hynes, Sidley Austin LLP, 1501 K Street NW, Washington, DC 20005. Replies to the petition are due on or before _____.

Persons seeking further information concerning discontinuance procedures may contact the Surface Transportation Board or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis.

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

Decided:

By the Board,

EXHIBIT C: CERTIFICATE OF PUBLICATION
(49 C.F.R. § 1105.12)

I certify that a notice of intent to discontinue rail service was published in the form prescribed by the Surface Transportation Board (49 C.F.R. § 1105.12). The notice was published on November 16, 2023, in the Monroe County Beacon, a newspaper of general circulation in Monroe County, Ohio.

/s/ Terence M. Hynes

Terence M. Hynes

*Counsel for Katahdin Railcar Services
LLC*

November 20, 2023

EXHIBIT D: CERTIFICATE OF SERVICE
(49 C.F.R. § 1152.60(d))

Pursuant to 49 C.F.R. § 1152.60(d), I certify that notice of the proposed discontinuance of lease operations in Docket No. AB 1336X was sent via first class mail on November 9, 2023, to the following:

State Public Service Commission

Public Utilities Commission of Ohio
180 E. Broad Street
Columbus, OH 43215-3707

Department of Defense

Military Surface Deployment and Distribution Command
Transportation Engineering Agency
Railroads for National Defense Program
1 Soldier Way, Building 1900W
Scott AFB, IL 62225-5006

National Park Service

National Park Service
Recreation Resources Assistance Division
1849 C Street NW
Washington, DC 20240-0001

U.S. Department of Agriculture

Chief of the U.S. Forest Service
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250-1111

I also hereby certify that I have served all active rail shippers on the Omal Line with a copy of the foregoing discontinuance petition for exemption.

/s/ Terence M. Hynes

Terence M. Hynes

*Counsel for Katahdin Railcar Services
LLC*

November 20, 2023