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ENTERED  
Office of Proceedings  
May 31, 2024  
Part of  
Public Record

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May 31, 2024

**VIA ELECTRONIC FILING**

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W., Room 1034  
Washington, DC 20423-0001

Re: **Docket No. FD 36782**  
**Paul Didelius and CCET LLC – Intra-Corporate Family**  
**Transaction Exemption – Cincinnati Eastern Railroad LLC**

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is a **Verified Notice of Exemption Pursuant to 49 C.F.R. § 1180.2(d)(3)**, dated May 31, 2024. The sum of \$1,600, representing the appropriate fee for this filing, 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 on this matter.

Respectfully submitted,

*/s/ Thomas J. Litwiler*

Thomas J. Litwiler  
Attorney for Paul Didelius and CCET LLC

TJL:tl

Attachment

FEE RECEIVED  
May 31, 2024  
SURFACE  
TRANSPORTATION BOARD

FILED  
May 31, 2024  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 36782

PAUL DIDEIUS AND CCET LLC  
-- INTRA-CORPORATE FAMILY TRANSACTION EXEMPTION --  
CINCINNATI EASTERN RAILROAD LLC

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**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1180.2(d)(3)**

Thomas J. Litwiler  
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(312) 252-1500

**ATTORNEY FOR  
PAUL DIDEIUS AND CCET LLC**

Dated: May 31, 2024

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 36782

PAUL DIDEIUS AND CCET LLC  
-- INTRA-CORPORATE FAMILY TRANSACTION EXEMPTION --  
CINCINNATI EASTERN RAILROAD LLC

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**VERIFIED NOTICE OF EXEMPTION**  
**PURSUANT TO 49 C.F.R. § 1180.2(d)(3)**

Paul Didelius (“Didelius”) and CCET LLC (“CCET I”), an existing Class III rail carrier, hereby file this verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) for the intra-corporate family merger of CCET I with and into Cincinnati Eastern Railroad LLC (“CCET II”), a new, to-be-formed non-carrier entity, with CCET II as the surviving carrier corporation and Didelius continuing in control of CCET II. The proposed intra-corporate transaction is being undertaken in connection with, and to facilitate, the immediately subsequent sale of CCET II to 3i RR Holdings GP, LLC, et al. and Regional Rail, LLC (“3i/Regional Rail”) pursuant to a separate notice of exemption being concurrently filed in Docket No. FD 36783, *3i RR Holdings GP LLC, et al. and Regional Rail, LLC – Control Exemption – Cincinnati Eastern Railroad LLC*. The CCET I-CCET II merger is a transaction within a corporate family that will not adversely affect the level of any existing rail service and will not result in significant operational changes or any change in the competitive balance with carriers outside of the existing Didelius corporate family.

In accordance with the requirements of 49 C.F.R. § 1180.4(g), Didelius and CCET I submit the following information:

**Description of the Proposed Transaction: 49 C.F.R. § 1180.6(a)(1)(i)**

CCET I is a Class III common carrier by rail which leases approximately 69.45 miles of rail line in Ohio from Norfolk Southern Railway Company (“NS”) pursuant to an agreement most recently extended in 2020. *CCET, LLC d/b/a Cincinnati Eastern Railroad – Lease and Operation Exemption – Norfolk Southern Railway Company*, Docket No. FD 36370 (STB served Dec. 26, 2019). CCET I is controlled by Didelius, who also controls six other Class III rail carriers: Rainer Rail LLC; RYAL LLC; CWW LLC; Yak Rail LLC; YCR Corporation; and KET LLC. See *Paul Didelius – Continuance in Control Exemption – CCET, LLC*, Docket No. FD 35901 (STB served Feb. 2015);<sup>1</sup> *Paul Didelius – Continuance in Control Exemption – Rainier Rail LLC*, Docket No. FD 36659, et al. (STB served May 1, 2023).<sup>2</sup>

CCET I’s owners have reached agreement to sell CCET I to 3i/Regional Rail, which currently controls twelve Class III rail carriers in the eastern United States. See *3i RR Holdings GP LLC, et al. and Regional Rail, LLC – Control Exemption – Indiana Eastern Railroad, LLC*, Docket No. FD 36735 (STB served Nov. 16, 2023). To accommodate certain corporate and tax considerations in connection with that transaction, CCET I will undergo a reorganization immediately prior to its sale to 3i/Regional Rail. The owners of CCET I have formed CCET Holding, Inc. (“CCET Holding”), which will assume direct ownership of CCET I.<sup>3</sup> CCET II will

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<sup>1</sup> At the time of CCET I’s creation, it was 100%-owned by Didelius. Today Didelius owns 70% of CCET I, and Chris Whitley owns the other 30%.

<sup>2</sup> As noted in that decision, another carrier controlled by Didelius, WRL LLC, was merged into Rainier Rail LLC once the latter entity became a rail carrier. See *Rainer Rail LLC and WRL LLC – Intra-Corporate Family Transaction Exemption*, Docket No. FD 36692 (STB served Apr. 20, 2023).

<sup>3</sup> This “mere insertion of a noncarrier holding company in [an existing] chain of control” is not itself a transaction subject to agency approval or jurisdiction. *RailAmerica, Inc. – Corporate Family Transaction Exemption – Huron and Eastern Railway Company, Inc. and Saginaw Valley Railway Company, Inc.*, Docket No. FD 32068 (ICC served June 18, 1992), slip op.

be formed as a separate, non-carrier subsidiary of CCET Holding, and CCET I will be merged with and into CCET II, with CCET II as the surviving corporation. As a result of these transactions, CCET II will become a Class III rail carrier, controlled indirectly by Didelius. The parameters of its lease operations in Ohio will be identical to those of CCET I. CCET II, in turn, will be the rail carrier acquired by 3i/Regional Rail pursuant to the concurrently-filed notice of exemption in Docket No. FD 36783.

The proposed merger of CCET I and CCET II, and the resulting control of CCET II by Didelius, is a transaction within a corporate family that will not result in adverse changes in service levels, significant operational changes or any change in the competitive balance with carriers outside of the Didelius corporate family.

The full name and address of the applicants herein are as follows:

CCET LLC d/b/a Cincinnati Eastern Railroad  
43 West Union Street  
Liberty, IN 47353  
(888) 280-8906

Paul Didelius  
709 North 10<sup>th</sup> Avenue  
Walla Walla, WA 99362

Any questions concerning this Notice should be sent to CCET I and Didelius' representative at the following address:

Thomas J. Litwiler  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208  
(312) 252-1500

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at 2; see also, e.g., *Hainesport Transportation Group, LLC – Corporate Family Transaction Exemption*, Docket No. FD 36184 (STB served May 24, 2018).

**Proposed Time Schedule for Consummation: 49 C.F.R. § 1180.6(a)(1)(ii)**

CCET I and Didelius intend to consummate the proposed intra-corporate family transaction on June 30, 2024.

**Purpose Sought to Be Accomplished: 49 C.F.R. § 1180.6(a)(1)(iii)**

The proposed reorganization of CCET I achieves certain corporate and tax objectives in connection with the contemplated sale of CCET II to 3i/Regional Rail, as proposed in the concurrently-filed notice of exemption in Docket No. FD 36783.

**States in Which Applicants' Property is Located: 49 C.F.R. § 1180.6(a)(5)**

CCET I leases and operates rail property located in the state of Ohio. The other rail carriers controlled by Didelius operate rail property located in the states of Washington and Oregon.

**Map - Exhibit 1: 49 C.F.R. § 1180.6(a)(6)**

A map of the rail line leased by CCET I is attached hereto as Exhibit 1.

**Agreement - Exhibit 2: 49 C.F.R. § 1180.6(a)(7)(ii)**

A draft of the Agreement and Plan of Merger by and between CCET I and CCET II is attached hereto as Exhibit 2.

**Labor Protective Conditions: 49 C.F.R. § 1180.4(g)(1)(i)**

Pursuant to 49 U.S.C. § 11326(c), no employee protective conditions may be imposed on this transaction. CCET I is a Class III rail carrier, as are the other rail carriers currently controlled by Didelius. CCET II will be a Class III rail carrier after consummation of the proposed intra-corporate merger transaction. No other rail carriers are involved in the proposed transaction.

**Environmental and Historic Preservation Matters: 49 C.F.R. § 1180.4(g)(3)**

Under 49 C.F.R. § 1105.6(c)(2)(ii), the intra-corporate merger of CCET I into CCET II and resulting control of CCET II as a carrier by Didelius are exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in current or future carrier operations, i.e., changes that exceed the thresholds of 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(2), the proposed intra-corporate family transaction also is exempt from historic preservation reporting requirements. The merger of CCET I and CCET II will not result in significant changes in existing or anticipated operations.

**Interchange Commitments: 49 C.F.R. § 1180.4(g)(4)**

The proposed intra-corporate family transaction does not involve the acquisition or operation of a rail line, and, thus, the provisions of 49 C.F.R. § 1180.4(g)(4) are inapplicable. The Agreement and Plan of Merger to be executed by the CCET I and CCET II does not itself include any provision that would limit the future interchange of traffic with a third-party connecting carrier, nor does the existing lease agreement between CCET I and NS.

Respectfully submitted,

*/s/ Thomas J. Litwiler*

By: \_\_\_\_\_

Thomas J. Litwiler  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208  
(312) 252-1500

**ATTORNEY FOR  
PAUL DIDELIUS AND CCET LLC**

Dated: May 31, 2024

## **EXHIBIT 1**

### **CINCINNATI EASTERN RAILROAD MAP**



**EXHIBIT 2**

**DRAFT  
AGREEMENT AND PLAN OF MERGER**

## AGREEMENT AND PLAN OF MERGER

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**AGREEMENT AND PLAN OF MERGER** (the “Agreement and Plan of Merger”), dated as of [●], 2024, by and between CCET LLC, an Ohio limited liability company (the “Merging Company”), and Cincinnati Eastern Railroad LLC, an Ohio limited liability company (the “Surviving Entity”), with the Merging Company and the Surviving Entity being hereinafter sometimes collectively referred to as the “Constituent Entities.”

### WITNESSETH:

WHEREAS, the Constituent Entities deem it advisable and in their best interests to provide for the merger (the “Merger”) of the Merging Company with and into the Surviving Entity subject to the terms and conditions hereinafter set forth;

WHEREAS, the sole member of the Merging Company has duly adopted and approved the Agreement and Plan of Merger on behalf of the Merging Company; and

WHEREAS, the sole member of the Surviving Entity has duly adopted and approved the Agreement and Plan of Merger on behalf of the Surviving Entity.

NOW THEREFORE, in consideration of the premises, the parties hereto do hereby agree as follows:

### ARTICLE I

#### MERGER

1.01 The Merger. In accordance with the terms and provisions of the Agreement and Plan of Merger and the laws under which each of the Constituent Entities were organized, or by which they are governed, and by their articles of organization or organizational documents, at the Effective Time (as hereinafter defined) the Merging Company shall be merged with and into the Surviving Entity, whereupon the separate existence of the Merging Company shall cease and the Surviving Entity shall continue as the survivor of the Merger.

1.02 Surviving Entity. At the Effective Time, the Surviving Entity shall succeed to and possess all the rights, privileges, immunities and franchises of a public as well as of a private nature, of the Merging Company, all the property, real, personal and mixed, and any assets of the Merging Company, and any contracts, permits, agreements or other instruments to which the Merging Company is a party and that are in effect and have not been terminated as of the Effective Time, and all debts due to the Merging Company on whatever account, including without limitation, taxes, debts relating to subscriptions to membership interests and all other choses in action, and all and every other interest of or belonging to or due the Merging Company shall be taken and deemed to be transferred to and vested in the Surviving Entity without further act or deed. The Surviving Entity shall, at the Effective Time and thenceforth, be responsible and liable for all liabilities and obligations of the Merging Company including, without limitation, the payment of all fees and taxes of the Merging Company and will be obligated to pay such fees and taxes; and any claim existing or action or proceeding pending by or against the

Merging Company may be prosecuted as if the Merger had not taken place or the Surviving Entity may be substituted in its place. Neither the rights of creditors nor any liens upon the property of the Merging Company shall be impaired by the Merger.

Except as hereinafter specifically set forth, at the Effective Time, the identity, existence, purposes, objects, franchises, privileges, rights and immunities of the Merging Company shall be merged into the Surviving Entity and the Surviving Entity shall, as the survivor of the Merger, be fully vested therewith. The separate existence of the Merging Company shall cease at the Effective Time.

## **ARTICLE II**

### **ARTICLES OF ORGANIZATION, BY-LAWS**

The Articles of Organization of the Surviving Entity as in effect immediately prior to the Effective Time shall be the Articles of Organization of the Surviving Entity.

The limited liability company agreement of the Surviving Entity as in effect at the Effective Time, as defined herein, shall be the limited liability company agreement of the Surviving Entity.

## **ARTICLE III**

### **EFFECTIVE TIME OF THE MERGER**

The term “Effective Time” as used in this Agreement and Plan of Merger means [11:59:59 p.m.] eastern time on [●], 2024.

## **ARTICLE IV**

### **EXCHANGE AND CANCELLATION OF MEMBERSHIP INTERESTS**

The Surviving Entity shall not issue any membership interests in exchange for the membership interests of the Merging Company.

At the Effective Time, by virtue of the Merger and without any action on the part of any party or other person, each membership interest in the Merging Company outstanding immediately prior to the Effective Time shall no longer be outstanding, shall be canceled and retired without payment of any consideration therefor, and shall cease to exist.

## **ARTICLE V**

### **MISCELLANEOUS**

5.01 Termination. Notwithstanding the approval of the Agreement and Plan of Merger by the sole member of the Merging Company and the sole member of the Surviving Entity, the Agreement and Plan of Merger may be terminated and the Merger abandoned at any time not later than the Effective Time by the mutual consent of the Constituent Entities, evidenced by

appropriate resolutions adopted by the sole member of the Merging Company and the sole member of the Surviving Entity.

5.02 Amendment of Agreement. At any time prior to the Effective Time, the parties hereto may, by a written agreement approved by the sole member of the Merging Company and the sole member of the Surviving Entity (i) extend the time for the performance of any of the obligations or other acts of the parties hereto, or (ii) waive compliance with any of the covenants or agreements contained in the Agreement and Plan of Merger. The Agreement and Plan of Merger shall not be altered or otherwise amended except pursuant to an instrument in writing executed and delivered on behalf of each of the parties hereto.

5.03 Counterparts. The Agreement and Plan of Merger may be executed in any number of counterparts, each of which shall be an original, but each counterpart together shall constitute but one and the same instrument.

5.04 Integration. It is expressly agreed that the Agreement and Plan of Merger embodies the entire agreement of the parties with respect to the subject matter hereof and that no understanding or agreement, oral or written, in relation thereto exists between the parties except as herein expressly set forth.

5.05 Governing Law. This Agreement and Plan of Merger shall be governed by, and construed under, the laws of the State of Ohio, all rights and remedies being governed by said laws.

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IN WITNESS WHEREOF, this Agreement and Plan of Merger has been duly executed on behalf of the parties hereto as of the date first above written.

**CCET LLC**

By: \_\_\_\_\_

Name:

Title:

**CINCINNATI EASTERN RAILROAD LLC**

By: \_\_\_\_\_

Name:

Title:

**VERIFICATION**

I, Paul Didelius, hereby verify under penalty of perjury that I have read the foregoing Notice of Exemption and know the facts asserted therein, and that the same are true as stated to the best of my knowledge, information and belief.

/s/ *Paul Didelius*

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Paul Didelius

Dated: May 31, 2024

**VERIFICATION**

I, Chris Whitley, hereby verify under penalty of perjury that I am President and Chief Executive Officer of CCET LLC, that I have read the foregoing Notice of Exemption and know the facts asserted therein, and that the same are true as stated to the best of my knowledge, information and belief.

/s/ *Chris Whitley*

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Chris Whitley

Dated: May 31, 2024