

52227

SERVICE DATE – AUGUST 26, 2024

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36796]

Nathan Evans—Acquisition of Control Exemption—Columbia & Reading Railway Co.
LLC

Nathan Evans (Evans), a noncarrier, filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to acquire control of Columbia & Reading Railway Co. LLC (CORY), a Class III rail carrier that operates a 2.5-mile line in Columbia, Lancaster County, Pa.¹

The verified notice states that, pursuant to an agreement titled “Sale of LLC Membership Interest” (Agreement) dated June 27, 2024,² Evans has agreed to acquire 51% of the membership interests of CORY from Freedom Rail Management, LLC. The verified notice further states that Evans currently controls Elizabethtown Industrial Railroad LLC (EZR), a Class III rail carrier that operates in Elizabethtown, Lancaster County, Pa.

¹ Evans filed a supplement on August 8, 2024, clarifying, among other things, that the transaction involves an acquisition of control rather than a continuance of control. Evans filed a second supplement on August 20, 2024, clarifying that the transaction does not require a historic report. The filing date of the second supplement will be deemed the filing date of the verified notice.

² A public version of the Agreement was filed with the August 8 supplement. A confidential version was submitted under seal on August 13, 2024, concurrently with a motion for protective order. The motion for protective order was granted in a decision served on August 15, 2024.

Evans states that: (1) the railroads would not connect with each other or any other railroads in the EZR corporate family, (2) the proposed transaction is not part of a series of anticipated transactions that would connect the lines with each other or any other railroad in the EZR corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

The earliest this transaction may be consummated is September 19, 2024, the effective date of the exemption (30 days after the verified notice was filed).

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 rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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. Petitions to stay must be filed no later than September 12, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36796, 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, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading

must be served on Evans' representative, John K. Fiorilla, Dyer & Peterson, PC,
605 Main Street, Suite 104, Riverton, NJ 08077-1440.

According to Evans, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

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

Decided: August 20, 2024.

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