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August 18, 2025
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August 18, 2025

Cynthia T. Brown
Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423-0001

Re: The Columbus & Ohio River Rail Road Company
-Lease and Operation Exemption
Including Interchange Commitment-
CSX Transportation, Inc.
Surface Transportation Board Finance Docket 36867

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is a Notice of Exemption under 49 U.S.C. § 10902 for The Columbus & Ohio River Rail Road Company ("CUOH") to continue operating on rail lines owned by the CSX Transportation, Inc.

Included within this notice of exemption is a request to waive the notice requirements of 49 CFR § 1150.42(e) and a confidential appendix that is being filed under seal pursuant to 49 CFR § 1150.43(h)(1).

The filing fee has been paid via pay.gov. If you have any questions related to this filing, please let me know.

Sincerely,

A handwritten signature in blue ink that reads 'Justin J. Marks'.

Justin J. Marks
Counsel for The Columbus & Ohio River Rail
Road Company

Enclosure

FEE RECEIVED
August 18, 2025
SURFACE
TRANSPORTATION BOARD

FILED
August 18, 2025
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36867

THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY
- LEASE AND OPERATION EXEMPTION
INCLUDING INTERCHANGE COMMITMENT –
CSX TRANSPORTATION, INC.

PETITION FOR EXEMPTION OF
THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY

(includes color images)

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Dated: August 18, 2025

*Attorneys for The Columbus & Ohio River
Rail Road Company*

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36867

THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY
- LEASE AND OPERATION EXEMPTION
INCLUDING INTERCHANGE COMMITMENT –
CSX TRANSPORTATION, INC.

PETITION FOR EXEMPTION OF
THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY

Pursuant to 49 U.S.C. §10502 and 49 C.F.R. §1121, The Columbus & Ohio River Rail Road Company (“CUOH”), a Class II railroad, files this petition to exempt from regulation under 49 USC § 10902, CUOH’s entry into an amendment to extend the term of, and to make other changes to, its current lease (“Lease”) with CSX Transportation, Inc. (“CSXT”). The lines of railroad subject to the lease amendment (the “Lease Amendment”) include the following segments of rail line totaling approximately 82.15 miles (together referred to herein as the “Leased Lines”): (1) Milepost BQ 0.0 at or near Newark, Ohio to Milepost BQ 25.90 at or near Mt. Vernon, Ohio; (2) Milepost BP 49.49 at or near Cambridge, Ohio, to Milepost 100.60 at or near Newark, Ohio; and (3) Milepost PB 0.00 at or near Cambridge, Ohio to Milepost BPB 5.14 at or near Byesville, Ohio. The Leased Lines are shown on the maps attached as Exhibit A. The Lease Amendment will extend the term of the Lease and will revise other commercial provisions.

I. Background

A. Identification of the Parties

Petitioner, CUOH, is a Class II common carrier by rail which owns or operates approximately 243 miles of rail line in Ohio. Genesee & Wyoming Inc. acquired control of CUOH in 2008. *Genesee & Wyoming Inc. – Control Exemption – Aliquippa & Ohio River Railroad Co.,*

et al., STB Finance Docket No. 35177 (served Dec. 30, 2008). The complete name and address of Applicant is The Columbus & Ohio River Rail Road Company, 47849 Papermill Road, Coshocton, OH 43812.

CSXT is a Class I common carrier by rail. Its full name and address is CSX Transportation, Inc., 500 Water Street, Jacksonville, Florida, 32202.

B. The Leased Lines

The lines of railroad subject to the Lease Amendment include the following segments of rail line totaling approximately 82.15 miles: (1) Milepost BQ 0.0 at or near Newark, Ohio to Milepost BQ 25.90 at or near Mt. Vernon, Ohio; (2) Milepost BP 49.49 at or near Cambridge, Ohio, to Milepost 100.60 at or near Newark, Ohio; and (3) Milepost PB 0.00 at or near Cambridge, Ohio to Milepost BPB 5.14 at or near Byesville, Ohio.

C. The Proposed Transaction

In 2004, CUOH entered into the Lease and a Freight Operating Agreement (“FOA”) with CSXT for CUOH to lease and operate the Leased Lines. *The Columbus & Ohio River Rail Road Company – Acquisition and Operation Exemption – Rail Lines of CSX Transportation, Inc.* STB Finance Docket No. 34540 (served Dec. 20, 2004). CUOH and CSXT have now agreed to amend the Lease to further extend the term of the Lease and make other commercial changes.¹

II. Jurisdiction and Statutory Standards

Pursuant to 49 U.S.C. §10902(a) and (c), a Class II rail carrier may acquire a line of railroad from another carrier if the Board finds that the acquisition is not inconsistent with the public

¹ Following the original expiration date under the Lease, CSXT and CUOH entered into four short term extensions as the parties negotiated the Lease Amendment. CUOH is not seeking authority for those lease extensions.

convenience and necessity. However, under 49 U.S.C. §10502, the Board must exempt a transaction from regulation under Part A of Subtitle IV of Title 49 if the Board finds that:

- (1) application of the Subpart is not necessary to carry out the transportation policy of section 10101 of this title; and
- (2) either –
 - (A) the transaction or service is of limited scope; or
 - (B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.

A. Application of 49 U.S.C. §10902 is not necessary to further the National Rail Transportation Policy of 49 U.S.C. §10101.

The Board need not perform a detailed scrutiny of the Lease Amendment because compliance with the formal requirements of Section 10902 is not necessary to accomplish the transportation policies of 49 U.S.C. §10101 (the “RTP”). The RTP at sections 10101(2), (7), and (15) states as policy a preference towards minimizing federal regulatory control over the rail transportation system through expedited regulatory decisions and reducing barriers to entry and exit from the industry. An exemption here furthers the RTP because CUOH and CSXT are merely entering into an extension of a lease agreement, and the transaction does not require use of the Board’s extensive application process. But for CUOH’s status as a Class II railroad (instead of it being a Class III rail carrier), CUOH would be able to file for authority of this lease extension under the Board’s class exemption procedures at *See* 49 C.F.R. Part 1150, Subpart E.

B. The Lease amendment is of limited scope.

The Lease Amendment satisfies the second element of the Board’s section 10502 exemption analysis because the transaction is of limited scope since CUOH only proposes to extend the lease that the Board has previously approved. Further, the Lease Amendment is of limited scope because the Leased Lines extend only 82.15 and are located entirely in the State of Ohio.

C. Alternatively, application of 49 U.S.C. §10902 is not necessary to protect shippers from abuse of market power.

The Lease Amendment also satisfies the criteria for an exemption because regulation is not necessary to protect shippers from the abuse of market power. The transaction only involves a continuation of the current lease with minor commercial changes, and the Lease Amendment is not expected to change current service or service options for any shippers on the Leased Lines.

III. Additional Requirements of 49 C.F.R. Part 1121

A. Environmental and Historic Reports - 49 CFR §1121.3(b)

This is an extension of a lease for continued rail operations that will not result in changes in carrier operations that will exceed the thresholds established in 49 C.F.R. §1105.7(e)(4) or (5). Further Board approval is required for CUOH to discontinue (or for CSXT to abandon) service, or to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. Accordingly, no environmental or historic documentation is required. See 49 C.F.R. §1105.6(c)(2); 49 C.F.R. §1105.8(b)(1).

B. Interchange commitment - 49 CFR §1121.3(d)

CUOH certifies that the freight operating agreement ("FOA") that was entered into in connection with the Lease includes an interchange commitment that potentially affects interchange with carriers other than CSXT. The interchange commitment is not being modified by the Lease Amendment. The following additional information is provided by CUOH with respect to the interchange commitment:

- i. As noted above, the FOA that was entered into in connection with the Lease contains an interchange commitment that affects interchange with carriers other than CSXT at the interchange points shown on the map attached as Exhibit A.

- ii. A confidential version of the Lease, FOA, and the Lease Amendment are being submitted under separate cover as part of a Confidential Appendix governed by 49 C.F.R. §1104.14(a).
- iii. A list of the shippers who currently use or who have used the Leased Lines in the last two calendar years, and whose traffic is subject to the interchange commitment is attached hereto as Exhibit B.
- iv. The aggregate number of carloads originated or terminated within the last two calendar years by the shippers identified in subparagraph iii. above is included as part of the Confidential Appendix.
- v. CUOH hereby certifies that, as set forth in the certificate of service, it has provided notice of the proposed transaction and interchange commitment to the shippers identified in subparagraph iii. above by serving them with a copy of this Petition for Exemption.
- vi. The Leased Lines directly interchange with Ohio Central Railroad, Inc. and Ohio Southern Railroad, Inc. and have an indirect interchange with Norfolk Southern Railway Company and the Wheeling and Lake Erie Railway.
- vii. CUOH does not have the information to estimate the difference between the rent with and without the interchange commitment at the time it entered into the Lease. Moreover, in connection with the current amendment and extension of the Lease there was no discussion or negotiation of the Lease Amendment with and without the commitment. Accordingly, CUOH requested an estimate of the difference from CSXT as permitted by the Board. *Information Required in Notices and Petitions Containing Interchange Commitments*, STB Docket No. EP 714 (served September

5, 2013), slip op. at 5-6. The CSXT response is included in the Confidential Appendix.

viii. The caption of this proceeding reflects the existence of the interchange commitment.

C. Labor Notice - 49 C.F.R. §1121.4(h)

Under 49 C.F.R. §1121.4(h), for transactions involving the acquisition or operation of rail lines by Class II rail carriers under 49 U.S.C. §10902, the exemption may not become effective until 60 days after applicant certifies to the Board that it has posted at the workplace of the employees on the affected line(s) and served a notice of the transaction on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred. However, since CUOH will continue to be the operator of the Leased Lines both before and after the transaction, CUOH is requesting a waiver of the labor notice requirements under 49 C.F.R. §1121.42(h).

The Board has held: “The purpose of 49 CFR 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.” *Wisconsin & Southern R.R., L.L.C. – Acquisition and Operation Exemption – SOO Line Railroad Company*, STB Finance Docket No. 36452, slip op. at 3 (served Dec. 15, 2020). *See also Acquisition of Leased Lines under 49 USC 10901 and 10902 – Advance Notice of Proposed Transactions (“Advanced Notice of Proposed Transactions”)*, 2 STB 592 (1997). In adopting the notice requirement, the Board specifically recognized that

“exceptional situations may occur necessitating acquirer requests for waiver of the 60 day notice provision ...” *Advanced Notice of Proposed Transactions*, *supra* at 601.

In this instance, CUOH should not be required to comply with the requirements of Section 1121.4(h) because there will be no changes for any employees working on the Leased Lines. CUOH already leases the rail facilities and has been the sole common carrier operator of the Leased Lines since 2004. The Lease Amendment extends the term of the Lease and CUOH will continue to be the sole common carrier operator of the Leased Lines. No employees of the transferring carrier, CSXT, have worked on the line since 2004, and there are no employees of CSXT who will be affected or have to make any career choices as a result of the extended lease. Posting notices on the Leased Lines would not provide notice to any CSXT employees since none work on the Leased Lines. Further, there will be no operational changes and no employees of CUOH will be affected. Thus, under the circumstances of this transaction, compliance with the notice requirements will not further the purposes of the rule and should be waived. Granting CUOH a waiver would be consistent with other circumstances in which the Board has granted waivers from the labor notice requirements when a common carrier has filed to continue operating a line that it was previously leasing and will remain as the common carrier operator on the line. *See Wisconsin & Southern R.R., L.L.C. – Acquisition and Operation Exemption – SOO Line Railroad Company*, STB Finance Docket No. 36452, slip op. at 3 (served Dec. 15, 2020).

IV. Labor Protection

Under 49 U.S.C. §10502(g), the Board may not exempt a rail carrier from otherwise applicable employee protection obligations. Since CUOH is a Class II carrier, the applicable level of labor protections for this transaction are specified by 49 U.S.C. §10902(d) and *Wisconsin Central Ltd. – Acquisition Exemption – Union Pacific R.R.*, 2 S.T.B. 218 (1997), *rev’d in part sub nom. Assoc. of American R.R. v. STB*, 162 F.3d 101 (D.C. Cir. 1998). CUOH’s continued lease

and operation of the Leased Lines is not expected to impact adversely any CSXT (or CUOH) employees.

Conclusion

Accordingly, CUOH requests that the Board grant the exemption sought in this Petition and the waiver of the advance notice provisions of 49 C.F.R. §1121.4(h), and permit the proposed lease extension for CUOH to continue to lease and operate the Leased Lines.

Respectfully submitted,



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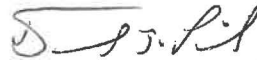
*Attorneys for The Columbus & Ohio River
Rail Road Company*

Dated: August 18, 2025

VERIFICATION

I, Daniel T. Pavick, President of The Columbus & Ohio River Rail Road Company, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on August / 8, 2025



Daniel T. Pavick, President

EXHIBIT A

MAP

State of OHIO

This Railroad Valuation Map Exhibit
Graphically Represents A Proposed
Real Estate Transaction.
It May Not Reflect Current "On The Ground"
Conditions And/Or Actual Locations Of Features.
All Dimensions, Offset Distances,
Area Calculations And Measurement Notations,
Shown On This Exhibit Are Approximate.

Knox Co.

END SEGMENT 3
LAKE ERIE SUBDIVISION
PROPOSED SHORT LINE LEASE
MP BQ 0.00 TO MP BQ 25.9

City of
Mt. Vernon

Licking Co.

BEGIN SEGMENT 1
CENTRAL OHIO SUBDIVISION
PROPOSED SHORT LINE LEASE
MP BP 49.49 TO MP BP 100.6

Guernsey Co.

BEGIN SEGMENT 3
LAKE ERIE SUBDIVISION
PROPOSED SHORT LINE LEASE
MP BQ 0.00 TO MP BQ 25.9

City of
Newark

Muskingum Co.

City of
Cambridge

City of
Byesville

EXHIBIT "A"

LOUISVILLE DIVISION
SEGMENT 1 - CENTRAL OHIO SUB.
MILE POST BP 49.49 TO BP 100.6
SEGMENT 2 - EASTERN OHIO BRANCH
MILE POST BPB 0.00 TO BPB 5.14
SEGMENT 3 - LAKE ERIE SUB
MILE POST BQ 0.00 TO BQ 25.90

END SEGMENT 1
CENTRAL OHIO SUBDIVISION
PROPOSED SHORT LINE LEASE
MP BP 49.49 TO MP BP 100.6

BEGIN & END SEGMENT 2
CENTRAL OHIO SUBDIVISION
EASTERN OHIO BRANCH
PROPOSED SHORT LINE LEASE
MP BPB 0.00 TO MP BPB 5.14

■ = Lease Area

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CSX TRANSPORTATION, INC.

OH-059-0997665

EAST OF COLUMBUS, OHIO
PROPOSED LEASE OF TRACK AND LAND

DATE: 10-25-04

SCALE: 1"=40000'

DRAWN BY: LARRY FENWICK

REVISED:

CITY: NEWARK - CAMBRIDGE

STATE: OH

FIPS: 39059:39083
39089:39119

DWG #: 0997665_A

VAL. SECT.:
V125.1:V6
V130.1
MAP No:
26-51:46-51
1-13

GIS NUMBERS:
12157-12187
12205-16701
11113-11130

PIN NUMBERS:
39-059-0008,
39-059-0003,
39-059-0061,
et al

EXHIBIT B

LIST OF SHIPPERS

AMG Vanadium 60790 Southgate Rd Cambridge, OH 43725	The National Lime & Stone Company 61145 Shaw Rd Cambridge, OH 43725
AMG Vanadium 2295 Innovation Wy Zanesville, OH 43701	Owens Corning 400 Case Ave Newark, OH 43055
Bimbo 3005 E Pointe Dr Zanesville, OH 43701	Packaging Materials 62805 Bennet Ave Cambridge OH 43725
Colgate 8800 Guernsey Industrial Blvd Cambridge, OH 43725	Plaskolite 1175 5 Bs Dr Zanesville, OH 43701
Dyno Nobel 850 Woodlawn Ave. Cambridge, OH 43725	Quanex 800 Cochran Ave Cambridge, OH 43725
Farm Supply 411 Linden Ave Zanesville, OH 43701	Ray Thomas Lumber 3100 Dillon Falls Rd Zanesville, OH 43701
Halliburton 2955 Gene Sands Dr Zanesville OH 43701	Shelly & Sands 11167 Clay Pike Rd Derwent OH 43733
International Paper 8800 Granville Rd Mount Vernon, OH 43050	Tidewater Logistics <i>aka</i> Junction Industries 11167 Clay Pike Rd Derwent OH 43733
Mauser 219 Commerce Dr Mt Vernon, OH 43050-4645	

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served by email or U.S. first class mail, postage pre-paid on the shippers listed on Exhibit B.



Justin J. Marks

Dated: August 18, 2025

AMG Vanadium 60790 Southgate Rd Cambridge, OH 43725	The National Lime & Stone Company 61145 Shaw Rd Cambridge, OH 43725
AMG Vanadium 2295 Innovation Wy Zanesville, OH 43701	Owens Corning 400 Case Ave Newark, OH 43055
Bimbo 3005 E Pointe Dr Zanesville, OH 43701	Packaging Materials 62805 Bennet Ave Cambridge OH 43725
Colgate 8800 Guernsey Industrial Blvd Cambridge, OH 43725	Plaskolite 1175 5 Bs Dr Zanesville, OH 43701
Dyno Nobel 850 Woodlawn Ave. Cambridge, OH 43725	Quanex 800 Cochran Ave Cambridge, OH 43725
Farm Supply 411 Linden Ave Zanesville, OH 43701	Ray Thomas Lumber 3100 Dillon Falls Rd Zanesville, OH 43701
Halliburton 2955 Gene Sands Dr Zanesville OH 43701	Shelly & Sands 11167 Clay Pike Rd Derwent OH 43733
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