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SERVICE DATE – MAY 26, 2026

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36923

COLBY NITTERHOUSE—CONTINUANCE IN CONTROL—AJAK RAIL, LLC; NPJ RAIL, LLC; PNGT RAIL, LLC; AND WCN RAIL, LLC

Docket No. FD 36895

NPJ RAIL, LLC—ACQUISITION EXEMPTION—RAIL LINE OF FRANKLIN STORAGE, LP AT GUILFORD SPRINGS ROAD TRANSLOAD FACILITY, CHAMBERSBURG, PA.

Docket No. FD 36896

PNGT RAIL, LLC—ACQUISITION EXEMPTION—RAIL LINE OF FRANKLIN STORAGE, LP AT WCN DRIVE TRANSLOAD FACILITY, CHAMBERSBURG, PA.

Docket No. FD 36897<sup>1</sup>

WCN RAIL, LLC—ACQUISITION EXEMPTION—RAIL LINE OF FRANKLIN STORAGE, LP AT KRINER ROAD TRANSLOAD FACILITY, CHAMBERSBURG, PA.

Decided: May 26, 2026

On April, 27, 2026, Colby Nitterhouse (Nitterhouse), a noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of the following entities upon their becoming rail carriers: AJAK Rail, LLC (AJAK), NPJ Rail, LLC (NPJ), PNGT Rail, LLC (PNGT), and WCN Rail LLC (WCN).<sup>2</sup> As described below, Nitterhouse's verified notice lacks

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<sup>1</sup> These proceedings are not consolidated but are being addressed in the same decision for administrative convenience.

<sup>2</sup> AJAK, NPJ, PNGT, and WCN all previously filed notices of exemption to acquire from Nitterhouse and operate certain rail lines. These notices were filed in Docket Nos. FD 36894 (AJAK), FD 36895 (NPJ), FD 36896 (PNGT), and FD 36897 (WCN). On January 13, 2026, the Board postponed the effective dates of those notices and directed those entities to file supplements to their notices. AJAK Rail, LLC—Acquis. Exemption—Rail Line of Franklin Storage LP at Advantage Ave. Transload Facility in Chambersburg, Pa., FD 36894 et al., slip op. at 2 (STB served Jan. 13, 2026). On January 28, 2026, the Board directed Nitterhouse to seek Board authority to continue in control of AJAK, NPJ, PNGT, and WCN upon their becoming rail carriers or to explain why such authority is not required. AJAK Rail, LLC—Acquis. Exemption—Rail Line of Franklin Storage LP at Advantage Ave. Transload Facility in

certain required information, and Nitterhouse will therefore be required to supplement it by June 15, 2026. Accordingly, the effective date of the exemption in Docket No. FD 36923 will be postponed until further order of the Board.

Under 49 C.F.R. § 1180.2(d)(2), continuance in control of a non-connecting carrier or one of its lines is exempt from Board regulation where (i) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a Class I carrier. Nitterhouse's verified notice provides sufficient information for the Board to conclude that the first and third of these requirements are satisfied. However, the verified notice provides no information regarding the second requirement. Nitterhouse will therefore be directed to provide a supplement to his verified notice addressing whether the proposed continuance in control is part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family.

On May 6, 2026, Pennsylvania & Southern Railway, LLC (PSCC) filed a petition to reject or revoke Nitterhouse's verified notice as it pertains to the proposed control of AJAK because of certain claimed deficiencies in the verified notice.<sup>3</sup> Nitterhouse's verified notice will not be rejected at this time. However, Nitterhouse will be required to file a supplement to address certain issues raised by PSCC, as explained further below.

As PSCC notes, the map for AJAK provided in Nitterhouse's verified notice is the same map that AJAK included in its verified notice. (See PSCC Pet. 6.) As noted above, see supra note 2, AJAK's verified notice was rejected because it was unclear, based on the map provided by AJAK, whether the notice accurately described the line that AJAK planned to acquire and operate. AJAK Rail, LLC—Acquis. Exemption—Rail Line of Franklin Storage LP at Advantage Ave. Transload Facility in Chambersburg, Pa., FD 36894 et al., slip op. at 3-4 (STB served Mar. 27, 2026). Accordingly, Nitterhouse will be directed to supplement his verified notice in Docket No. FD 36923 with a revised map accurately reflecting the track to be operated by AJAK or explain why the map that was provided is accurate.

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Chambersburg, Pa., FD 36894 et al., slip op. at 3-4 (STB served Jan. 28, 2026). The Board later rejected AJAK's notice of exemption, explaining that, based on the map provided by AJAK, it was unclear whether the notice accurately describes the line that AJAK plans to acquire and operate. AJAK Rail, LLC—Acquis. Exemption—Rail Line of Franklin Storage LP at Advantage Ave. Transload Facility in Chambersburg, Pa., FD 36894 et al., slip op. at 3-4 (STB served Mar. 27, 2026).

<sup>3</sup> PSCC is a Class III carrier that operates in the Chambersburg, Pa. area. (PSCC Pet. 4.) It provides service to a number of shippers, including the Franklin Storage properties where AJAK proposes to operate. (Id.) PSCC characterizes its pleading as a petition to partially "reject or revoke." Because the notice of exemption is not yet in effect, PSCC's pleading will be treated as a petition to partially reject. Cf. Middletown & N.J. R.R.—Lease & Operation Exemption—Norfolk S. Ry., FD 35412, slip op. at 2 n.1 (STB served Dec. 23, 2010) (treating a "petition to reject or revoke" as a petition to revoke where the notice of exemption was already in effect).

PSCC also argues that Nitterhouse’s proposed schedule for consummation, as required by 49 C.F.R. §1180.6(a)(1)(ii), is deficient. (*Id.* at 5.) Nitterhouse states that he intends to consummate the proposed transaction upon the “filing” of a new verified notice of exemption on behalf of AJAK. (Nitterhouse Notice 4.) PSCC argues that “control of AJAK can only be effective if and when any new AJAK notice of exemption is filed, accepted by the Board and becomes effective.” (PSCC Pet. 5.) This decision clarifies that the control transaction cannot be consummated with respect to AJAK (i.e., AJAK cannot become a rail carrier under Nitterhouse’s control) merely upon AJAK filing a new verified notice of exemption. Rather, AJAK and Nitterhouse must each obtain Board authority and that authority must become effective before the transactions may be consummated. *See* 49 U.S.C. § 10901(a)(4) (requiring Board authority for a non-carrier to acquire and operate a rail line); 49 U.S.C. § 11323(a)(5) (requiring Board authority for a non-carrier to control more than one rail carrier). Thus, Nitterhouse will be directed to provide a new schedule for consummation consistent with these requirements.<sup>4</sup>

The Board further notes that although Nitterhouse states that AJAK intends to file a new verified notice of exemption, (Nitterhouse Notice 2), AJAK has yet to file one. The Board will not proceed with the continuance in control exemption for Nitterhouse to control AJAK until AJAK files a new verified notice that complies with the Board’s regulations.

It is ordered:

1. The effective date of the verified notice of exemption in Docket No. FD 36923 is postponed until further order of the Board.
2. Nitterhouse is directed to supplement its verified notice, as described above, by June 15, 2026.
3. PSCC’s petition is denied.
4. This decision is effective on its date of service.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

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<sup>4</sup> PSCC makes two additional arguments in support of partial rejection. First, PSCC argues that Nitterhouse erred in his description of the proposed transaction. (PSCC Pet. 5.) PSCC notes that Nitterhouse states that the various entities will be “contract operators.” (*Id.*) According to PSCC, this statement is inconsistent with other statements in the verified notice that the various entities will become Class III carriers. (*Id.*) However, reading the notice as a whole, the statement does not provide a basis to reject the verified notice because it is clear that Nitterhouse intends for the various entities to become Class III carriers. Second, PSCC claims that Nitterhouse’s statement that the purpose of the transaction is to allow him to proceed with plans to control the various entities does not meet the requirements of 49 C.F.R. § 1180.6(a)(1)(iii). (*Id.* at 6.) PSCC asserts that § 1180.6(a)(1)(iii) requires a justification for the proposed transaction. (*Id.*) However, § 1180.6(a)(1)(iii) simply requires Nitterhouse to state his purpose, which he has done.