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BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36028 (Sub-No. 2)

KANAWHA RIVER RAILROAD, L.L.C.—LEASE AND
OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT—
NORFOLK SOUTHERN RAILWAY COMPANY

PETITION FOR WAIVER FROM THE ADVANCE LABOR NOTICE REQUIREMENTS OF 49 C.F.R. § 1150.42(e)

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Dated: October 19, 2026.

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Kanawha River Railroad, L.L.C. ("KRR"), a Class III railroad carrier, hereby submits this Petition to the Surface Transportation Board (the "Board") for a waiver of the sixty (60)-day advance labor notice requirements codified at 49 C.F.R. § 1150.42(e), which requirements would otherwise apply to the lease and operation exemption transaction which is the subject of the above-captioned proceeding.

Since 2016, KRR has leased approximately 309.45 miles of railroad line, consisting of nine interconnected segments of railroad in the States of Ohio and West Virginia (the "Lines"), from their owner, Norfolk Southern Railway Company ("NSR"). KRR and NSR have recently reached an agreement which will update and extend KRR's lease of the Lines from NSR. KRR has invoked the Board's class exemption procedures to authorize its continued lease and operation of the Lines. Although KRR's annual revenues are not expected to exceed the thresholds of a Class I or Class II carrier, they are expected to exceed $5 million, thereby triggering

the application of Section 1150.42(e) in this proceeding, unless the Board waives the section's requirements in response to this Petition.

The Board's regulations provide that when the annual revenues of an acquiring railroad carrier exceed, or because of the transaction before the Board would exceed, $5 million, the carrier must post advance notice of the transaction (the "Labor Notice") at the workplace of any employees affected by the transaction, and serve the Labor Notice on the national offices of each collective bargaining organization representing those employees affected by the transaction. *See* 49 C.F.R. § 1150.42(e). Barring the Board's waiver of the Labor Notice requirement, a notice of exemption involving a transaction qualifying for a class exemption will not be effective until sixty (60) days after the carrier has certified its compliance with the advance notice and posting requirements. *See id.*

The Labor Notice serves two purposes: (1) to permit the carrier to "give notice of its general intentions in hiring to a work force[;]" and (2) to permit affected railroad employees to make informed decisions about the future of their employment, and whether to seek employment with the acquiring carrier. *See Acquisition of R.R. Lines under 49 U.S.C. 10901 & 10902—Advance Notice*, 2 S.T.B. 592, 597 (1997). In adopting this rule, the Board indicated it would entertain waivers of this requirement under appropriate circumstances. *Id.* at 601.

The Board has historically waived the notice requirement where the transaction at issue extends arrangements which it has previously authorized, the effect of which would be to continue the operational and labor *status quo*. *See, e.g.*,

Dak., Mo. Valley & W. R.R., Inc.—Lease and Operation Exemption—Soo Line R.R. Co., FD 34904 (STB served Jul. 24, 2006) ("*DMV&W*"); *Kaw River R.R., LLC—Lease Exemption with Interchange Commitment—BNSF Ry. Co.*, FD 35015 (Sub-No. 1) (STB served May 30, 2025) ("*KAW*"). The Board requires such petitions to be reasonable. *See Portland & W. R.R.—Lease and Operation Exemption—Port of Tillamook Bay*, FD 33734 (STB served May 10, 2009).

For example, in *DMV&W*, the Board waived the Labor Notice requirement where, as here, the exemption proceeding applied to the renewal of an existing lease, recognizing in so doing that no railroad labor employees would be affected by the renewal. "Here, no [Soo Line] employees will be affected because no [Soo Line] employees are currently working on the lines and no [Soo Line] jobs will become available, abolished[,] or relocated as a result of the proposed transaction." *DMV&W* at 2. Likewise, in *KAW*, the Board waived the Labor Notice requirement where the applicant (which was one of KRR's sister railroads in the Watco corporate family) sought to extend an existing lease, noting that it had been the sole operator on the leased lines for several years preceding the exemption proceeding, and that none of its employees would be affected by the renewal. *KAW* at 2.

Here, the renewal and extension of KRR's lease of the Lines from NSR maintains the operational and labor *status quo* which has been in effect since KRR first leased the lines in 2016. Consequently, extending KRR's lease will not affect any employees of either KRR or NSR. A waiver of the Labor Notice requirement in this case is therefore reasonable. Further, such a waiver would be consistent with

the Board's historical practice. *See DMV&W* at 2; *KAW* at 2; *Ala S. R.R., Inc.—Lease and Operation Exemption Including Interchange Commitment—Kan. City S. Ry. Co.*, FD 35889 (STB served Jan. 13, 2015).

The update and extension of KRR's lease in this case will continue the operational and labor *status quo* in place since 2016. No KRR or NSR jobs will be "abolished or relocated as a result of the proposed transaction." *DMV&W* at 2; *KAW* at 2. Further, the update and extension of KRR's lease will not affect any employees of NSR, since none have worked on the Lines since 2016. Accordingly, no Labor Notice would be necessary.

WHEREFORE KRR petitions the Board to waive the sixty (60)-day Labor Notice requirement codified at 49 C.F.R. § 1150.42(e), for purposes of the present class exemption proceeding only.

Respectfully submitted,

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