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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36121]

Progressive Rail Incorporated—Continuance in Control Exemption—Piedmont and Northern Railroad LLC

Progressive Rail Incorporated (PGR), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Piedmont and Northern Railroad LLC (PDMT), upon PDMT's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in Piedmont & Northern Railroad—Change in Operator Exemption—Piedmont Railway, Docket No. FD 36120. In that proceeding, PDMT seeks an exemption under 49 C.F.R. § 1150.31 to assume operations over approximately 13.04 miles of rail line between Mt. Holly and Gastonia (including the Belmont spur between Mt. Holly and Belmont), in Gaston County, N.C.

The earliest this transaction may be consummated is July 1, 2017, the effective date of the exemption (30 days after the verified notice was filed). PGR states that it intends to consummate the transaction on July 1, 2017.

PGR will continue in control of PDMT upon PDMT's becoming a Class III rail carrier, and remains in control of Class III carriers Airlake Terminal Railway Company, LLC, Central Midland Railway Company, Iowa Traction Railway Company, and Iowa Southern Railway Company.

PGR certifies that: (1) the rail line to be operated by PDMT does not connect with any other railroads in the PGR corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect this line with any other railroad in the PGR corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. §1180.2(d)(2).

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. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the 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 for stay must be filed no later than June 23, 2017 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36121, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

Board decisions and notices are available on our website at WWW.STB.GOV.

Decided: June 13, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.