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SERVICE DATE – DECEMBER 2, 2016

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36072]

Carload Express, Inc.—Continuance in Control Exemption—Delmarva Central Railroad Company

Carload Express, Inc. (CEI), has filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of Delmarva Central Railroad Company (DCR) upon DCR's becoming a Class III rail carrier. CEI is a Class III non-operating rail holding company currently with subsidiary companies operating rail line in Pennsylvania and Ohio.

This transaction is related to a concurrently filed verified notice of exemption in Delmarva Central Railroad—Lease & Operation Exemption with Interchange Commitment—Norfolk Southern Railway, FD 36071, in which DCR has filed for authority under 49 C.F.R. § 1150.31 to lease and operate approximately 161.59 miles of track (the Line) currently owned and operated by Norfolk Southern Railway Company (NSR) consisting of (1) a line of railroad extending between Porter, Del., at milepost DM 14.4 and Pocomoke, Md., at milepost DM 128.19; (2) a line of railroad extending

between Harrington, Del., at milepost IR 0.0 and Frankford, Del., at milepost IR 39.0; and (3) various industrial tracks.¹

The transaction may be consummated on or after December 17, 2016, the effective date of the exemption.

CEI currently controls three Class III carriers: Allegheny Valley Railroad Company and Southwest Pennsylvania Railroad Company, which operate in Pennsylvania, and Ohio Terminal Railway Company, which operates in Ohio.

CEI certifies that (1) the rail lines to be operated by DCR do not connect with any other railroads in the CEI corporate family; (2) the proposed continuance in control is not part of a series of anticipated transactions that would connect the carriers with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, pursuant to 49 C.F.R. § 1180.2(d)(2), the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323.

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.

¹ DCR states in its verified notice that these segments include the Oxford Industrial Track between mileposts VQ 0 and VQ 0.4, the Cambridge Industrial Track between mileposts QT 0.0 and QT 2.3, the Willards Industrial Track between mileposts MW 42.05 and MW 45.7, the Mardella Industrial Track between mileposts MW 41.4 and MW 42.05, the Mill Street Industrial Track between mileposts MR 0.0 and MR 0.6, and the Chrisfield Industrial Track between mileposts KK 0.0 and KK 1.2. DCR notes that the parties do not intend to convey common carrier authority over such industrial tracks or convert such industrial tracks into 49 U.S.C. § 10901 lines.

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. Stay petitions must be filed no later than December 9, 2016 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36072, 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 William A. Mullins, Baker & Miller, PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

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Decided: November 28, 2016.

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