

28491

SERVICE DATE - NOVEMBER 21, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33493]

RailAmerica, Inc.—Acquisition of Control Exemption—Cape Fear Railways, Inc.

RailAmerica, Inc. (RailAmerica), a noncarrier, has filed a notice of exemption to acquire, through stock purchase, the Cape Fear Railways, Inc. (CF), a Class III railroad, operating in the State of North Carolina.¹

The transaction was expected to be consummated on or after October 17, 1997.

RailAmerica directly controls 11 common carrier Class III railroads operating in 7 states: the Cascade and Columbia River Railroad Company; the Delaware Valley Railway Company, Inc.; the St. Croix Valley Railroad Company; the Gettysburg Railway; the Huron & Eastern Railway Company, Inc.; the Minnesota Northern Railroad, Inc.; the Otter Tail Valley Railroad Company; the Saginaw Valley Railway Company, Inc; the West Texas & Lubbock Railroad Company, Inc.; the Dakota Rail, Inc.; and the South Central Tennessee Railroad Company.

RailAmerica states that: (i) the rail lines to be operated by CF do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect CF with any railroad in the corporate family; and (iii) the

¹ RailAmerica will purchase the stock of CF from Seaboard Corporation.

transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 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 sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33493, must be filed with the Surface Transportation Board, Office of the Secretary, Case

Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Gary Laakso, Esq., RailAmerica, Inc., 301 Yamato Road, Suite 1190, Boca Raton, FL 33431.

Decided: November 17, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

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