

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36199]

Oregon International Port of Coos Bay and Coos Bay Rail Line, Inc.—Intra-Corporate Family Transaction Exemption

Oregon International Port of Coos Bay (the Port), and Coos Bay Rail Line, Inc. (Coos Rail) (collectively, the Applicants), have jointly filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) for an intra-corporate family transaction. According to the Applicants, the Port is a rail common carrier that owns certain interconnected railroad lines in Oregon extending from Eugene to Coquille via Coos Bay, a total of roughly 133 route miles.¹ The Applicants state that the lines in question extend from milepost 652.114 at Danebo, Or., to milepost 763.13 at Cordes, Or., and from milepost 761.13 at Cordes to milepost 785.5 at Coquille (collectively, the Line).

The Line is currently operated by Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link (CBRL) pursuant to a lease agreement with the Port.² The Applicants state that CBRL's parent company has advised the Port that it no longer wishes to operate the Line, and that the Port has begun to contemplate assuming

¹ See Or. Int'l Port of Coos Bay—Acquis. Exemption—Rail Line of Union Pac. R.R. in Coos Cty., Or., FD 35385 (STB served Jul. 9, 2010); Or. Int'l Port of Coos Bay—Feeder Line Application—Coos Bay Line of Cent. Ore. & Pac. R.R., FD 35160 (STB served Oct. 31, 2008; modified Mar. 12, 2009.)

² See Coos Bay R.R. Operating Co., LLC—Operation Exemption—Line of R.R. owned by the Or. Int'l Port of Coos Bay, FD 35551 (STB served Sep. 14, 2011.)

operations of the Line in place of CBRL.³ However, the Applicants assert the Port does not wish to become an operating common carrier itself, and therefore has created Coos Rail as a public benefit corporation under the control of the Port for purposes of assuming operations over the Line in place of the Port. According to the Applicants, the Port would retain ownership of the Line, but common carrier service would be provided by Coos Rail, either alone or jointly with CBRL. The Applicants state that the proposed transaction will be governed by a lease agreement that has yet to be executed, a copy of which was submitted with their verified notice of exemption.

The Applicants state that the transaction and underlying lease agreement do not involve or contain any provision or agreement that may limit future interchange with a third-party connecting carrier.

Unless stayed, the exemption will be effective on June 30, 2018 (30 days after the verified notice was filed). The Applicants state that they intend to consummate the proposed transaction on or after June 30, 2018, as circumstances warrant.

This is a transaction within a corporate family of the type specially exempted from prior review and approval under 49 C.F.R. § 1180.2(d)(3). The Applicants have not indicated that the transaction would result in adverse changes in service levels, significant operational changes, or any changes in the competitive balance with carriers outside the corporate family. According to the Applicants, the transaction will permit the Port to take common carrier operations in house quickly (if necessary) and to create a discrete

³ On June 4, 2018, CBRL filed a notice of intent to participate, stating that it intends to submit a petition to reject the notice on or before June 20, 2018.

corporate subdivision to handle the business of running the Line as ancillary to the Port's primary functions.

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. The Port is a Class III carrier and Coos Rail would become a Class III carrier. Accordingly, labor protective conditions will not be imposed.

If the verified 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 exemption. Petitions to stay must be filed no later than June 22, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36199, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy must be served on Audrey L. Brodrick, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

According to the Applicants, this action is exempt from environmental review under 49 C.F.R. § 1105.6(c) and exempt from historic review under 49 C.F.R. § 1105.8(b).

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Decided: June 12, 2018.

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