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SERVICE DATE - NOVEMBER 21, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36245]

Paul Didelius—Continuance in Control Exemption—KET, LLC

Paul Didelius (Didelius), an individual and noncarrier,¹ has filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of KET, LLC (KET), upon KET's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in KET, LLC—Operation Exemption—Lines of Railroad in Benton County, Wash., Docket No. FD 36244, in which KET seeks Board approval under 49 C.F.R. § 1150.31 to operate two industrial spurs totaling approximately 1.28 miles in length in Kennewick and Hedges, Benton County, Wash.

The transaction may be consummated on or after December 5, 2018, the effective date of the exemption (30 days after the verified notice of exemption was filed).

¹ Didelius currently owns 100% of LRY, LLC d/b/a Lake Railway (LRY), a Class III carrier that leases and operates rail lines owned by Union Pacific Railroad Company and Lake County, Or., in California and Oregon; 49% of YCR Corporation (YCR), a Class III rail carrier established for the purpose of leasing and operating a line of railroad owned by Yakima County, Wash.; 100% of CCET, LLC (CCET), a Class III short line rail carrier organized for the purpose of leasing and operating a rail line owned by Norfolk Southern Railway Company in Ohio; 100% of WRL, LLC (WRL), a Class III carrier that leases and operates a rail line owned by Port of Royal Slope, a Washington state municipal corporation, in Washington; and 100% of CWW, LLC (CWW), a Class III carrier that leases and operates a line of railroad owned by the Port of Columbia, Wash.

Didelius represents that: (1) the rail properties that will be operated and controlled by Didelius, namely LRY, YCR, CCET, WRL, CWW, and KET, do not physically connect; (2) there are no plans to acquire additional rail lines for the purpose of making a connection; and (3) each of the carriers involved in the continuance in control transaction is a Class III 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 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 effectiveness of the exemption. Petitions for stay must be filed no later than November 28, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36245, 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 James H. M. Savage, 22 Rockingham Court, Germantown, MD 20874.

Board decisions and notices are available on our website at www.stb.gov.

Decided: November 16, 2018.

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