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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36282]

Allegheny Valley Railroad Company—Acquisition Exemption—Lines of CSX
Transportation, Inc.

Allegheny Valley Railroad Company (AVR),¹ a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to: (1) acquire from CSX Transportation, Inc. (CSXT) approximately 47.5 miles of rail line that AVR has leased and operated since 2003 in and around Pittsburgh, Pa., (the Lines); and (2) amend and extend existing incidental trackage rights related to the Lines.

AVR states that the Lines to be acquired consist of: (1) the W&P Sub from milepost BO 5.00 at Glenwood Junction in Pittsburgh, to milepost BO 38.14 in Washington, Pa., a distance of approximately 33.14 miles; (2) the Tylerdale Connecting Track from the connection with the W&P Sub at milepost BOA 0.0 to milepost BOA 0.83 in Washington, a distance of approximately 0.83 miles²; (3) the P&W Sub No.

¹ AVR is a subsidiary of Carload Express, Inc., a noncarrier holding company that also controls three other Class III rail carriers operating in Pennsylvania, Ohio, Maryland, Delaware, and Virginia. Carload Express, Inc.—Continuance in Control Exemption—Delmarva Cent. R.R., FD 36072 (STB served Dec. 2, 2016).

² According to the verified notice, the Tylerdale Connecting Track was abandoned beyond milepost BOA 0.83 in 1992, prior to being acquired by CSXT. Tylerdale Connecting R.R.—Aban. Exemption—in Washington Cty., Pa., AB 366X (ICC served Feb. 24, 1992); see also CSX Transp., Inc.—Corp. Family Merger Exemption—Atlanta, Knoxville & N. Ry., Cincinnati Inter-Terminal R.R., & Tylerdale Connecting R.R., FD 35448 (STB served Dec. 3, 2010). According to AVR, exempt trackage

(continued...)

2 Main from milepost BF 322.8 at Glenwood Junction to milepost BF 326.3 at East Schenley in Pittsburgh, a distance of approximately 3.5 miles; (4) the P&W Sub from milepost BG 1.0 at Field in Pittsburgh to milepost BG 10.4 in Glenshaw, Pa., a distance of approximately 9.4 miles; (5) the River Branch from station 6+50 near 41st Street to station 40+94 near 33rd Street in Pittsburgh, including the ramp connection to the P&W Sub at 33rd Street, a distance of approximately 0.65 miles;³ and (6) portions of CSXT's Glenwood Yard extending generally from Glenwood Junction to Laughlin Junction in Pittsburgh. AVR will acquire all track and rail assets comprising the Lines from CSXT and will acquire a permanent rail freight easement over the underlying rights-of-way.

In connection with the proposed acquisition transaction, AVR will amend, restate, and extend the agreement governing its existing overhead and limited local trackage rights over CSXT's rail line between milepost BF 326.3 at East Schenley and milepost BG 1.0 at Field in Pittsburgh. The verified notice states that these incidental trackage rights connect the third and fourth line segments listed above and are authorized in conjunction with the underlying acquisition transaction pursuant to 49 C.F.R. § 1150.41(d).

remains beyond milepost BOA 0.83 to switch shipper facilities, and AVR states that it is acquiring CSXT's interests in the rail line corridor to former milepost BOA 1.47.

³ According to the verified notice, the River Branch extends an additional approximately 0.85 miles to a terminus near 24th Street. AVR states that this portion of the River Branch is out of service and is not included in the proposed acquisition transaction. AVR indicates that CSXT and AVR will shortly file an appropriate joint notice of exemption for, respectively, the abandonment and discontinuance of service over this out-of-service segment of the River Branch.

AVR states that it expects to execute a purchase and sale agreement and related agreements with CSXT shortly, providing for AVR's acquisition of the Lines, and that the proposed acquisition of the Lines will simply convert AVR's leasehold interest in the Lines to an ownership interest.

AVR states that it has leased and provided all rail freight service on the Lines since 2003 (and, with respect to one short segment of trackage, since 2001). Allegheny Valley R.R.—Lease, Operation & Trackage Rights Exemption—Lines of CSX Transp., Inc., FD 34431 (STB served Nov. 26, 2003); Allegheny Valley R.R.—Lease & Operation Exemption—Line of CSX Transp., Inc., FD 34095 (STB served Sep. 27, 2001). AVR states that the proposed acquisition of rail lines will not result in changes to the rail operations of AVR or CSXT or have any effect on AVR or CSXT employees.

AVR has certified that the transaction does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier. AVR states that its projected annual revenues as a result of this transaction will not result in AVR's becoming a Class II or Class I rail carrier. Pursuant to 49 C.F.R. § 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it is required to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, to post a copy of the notice at the workplace of the employees on the affected lines, and to certify to the Board that it has done so, at least 60 days before the exemption is to become effective. AVR filed its certification on April 11, 2019.⁴

⁴ The verified notice states that there are no CSXT employees on the Lines and that AVR's employees are not represented by any labor union.

Concurrently with its verified notice, however, AVR filed a petition for partial waiver of the 60-day advance labor notice requirement to permit the exemption to take effect on May 15, 2019. AVR's waiver request will be addressed in a separate decision.

AVR states that it expects to consummate the transaction on or shortly after May 15, 2019. The Board will establish the effective date in its separate decision on the waiver request.

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 May 8, 2019.

An original and 10 copies of all pleadings, referring to Docket No. FD 36282, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on AVR's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

Board decisions and notices are available at www.stb.gov.

Decided: April 26, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.