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SERVICE DATE – AUGUST 16, 2019

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. 36335]

Progressive Rail Incorporated—Continuance in Control Exemption—Chicago St. Paul & Pacific Railroad LLC

Progressive Rail Incorporated (PGR), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Chicago St. Paul & Pacific Railroad LLC (CSP), a noncarrier subsidiary of PGR, upon CSP's becoming a Class III rail carrier.

CSP has concurrently filed a verified notice of exemption in Chicago St. Paul & Pacific Railroad—Change in Operators Exemption—Chicago Terminal Railroad, Docket No. FD 36327. In that docket, CSP seeks to acquire a leasehold and operating interest in a 3.47-mile line of railroad (the Line) near Bensenville, Ill., owned by Soo Line Railroad Company and currently operated by Chicago Terminal Railroad. PGR notes that CSP is a new entity established by PGR to operate the Line.

The earliest this transaction may be consummated is August 31, 2019, the effective date of the exemption (30 days after the verified notice was filed). PGR states that it intends to consummate the transaction concurrently with CSP's commencement of operations, pursuant to Docket No. FD 36327, on or about September 1, 2019.

PGR will continue in control of CSP upon CSP's becoming a Class III rail carrier, while remaining in control of nine other Class III carriers: Airlake Terminal Railway Company, LLC; Central Midland Railway Company; Iowa Traction Railway Company; Iowa Southern Railway Company; Piedmont & Northern Railroad, LLC; Chicago Junction Railway Company; St. Paul & Pacific Railroad Company, LLC; Clackamas Valley Railway Company, LLC; and St. Paul & Pacific Northwest Railroad Company, LLC.

PGR verifies that: (1) the Line does not connect with the lines of PGR or the lines of any of the other nine Class III rail carriers controlled by PGR; (2) this continuance in control transaction is not part of a series of anticipated transactions that would result in such a connection; and (3) the transaction does not involve a Class I rail 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 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. Petitions for stay must be filed no later than August 23, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36335, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423. In addition, a copy of each pleading must be served on PGR's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to PGR, this action is excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b)(1).

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

Decided: August 13, 2019.

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