



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35723]

Housatonic Railroad Company, Inc., Maybrook Railroad Company, and Housatonic Transportation Company—Intra-Corporate Family Transaction Exemption

Housatonic Railroad Company, Inc. (HRRC), Maybrook Railroad Company (MRC), and Housatonic Transportation Company (HTC) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) and 1180.2(d)(6) for an intra-corporate family transaction and a reincorporation in a different State. Specifically, HRRC will transfer to MRC (but will continue to operate) a segment of railroad line, and HTC, a Delaware corporation, will reincorporate as a Connecticut corporation while remaining in control of HRRC and Coltsville Terminal Company (CTC).

HTC, a noncarrier holding company, is the parent company of wholly owned subsidiaries HRRC, CTC, and a noncarrier subsidiary engaged in warehousing, reloading, and transloading operations. HRRC, a Class III rail carrier, operates rail lines in Connecticut and Massachusetts, including the Berkshire Line, which consists of three contiguous segments owned by MRC, the Connecticut Department of Transportation (CDOT), and HRRC, respectively.<sup>1</sup> Applicants state that MRC is a “non-operating” rail

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<sup>1</sup> The Berkshire Line is an approximately 86.3-mile line located between Berkshire Junction in Danbury, Conn., and Pittsfield, Mass. Currently, MRC owns the 13.65-mile segment between Berkshire Junction and a point in New Milford, Conn., called Boardman’s Bridge; CDOT owns a 36.35-mile segment between Boardman’s

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carrier that owns rail lines in Connecticut. Applicants indicate that MRC, HTC, CTC, and HRRC are under common ownership and common control and are members of the Housatonic corporate family.

According to applicants, HTC seeks to become a Connecticut corporation in lieu of continuing as a Delaware corporation. After its reincorporation in Connecticut, HTC will remain in control of HRRC and CTC.

Applicants also seek to transfer to MRC ownership of the portion of the Berkshire Line now owned by HRRC. Applicants state that HRRC would continue to operate the line through retained perpetual and exclusive common carrier freight operating rights pursuant to an operating agreement between HRRC and MRC.

Applicants anticipate consummating the proposed transaction on or after April 6, 2013, the effective date of the exemption (30 days after the exemption was filed).

Applicants state that the purpose of the intra-corporate transaction is to streamline administration and enhance the financial condition of HTC and HRRC by consolidating ownership of the privately owned portion of the Berkshire Line, by relieving HRRC of the burden of the payment of a mortgage obligation secured by the property to be transferred, and by reducing administration expenses. Applicants state that HTC has no property, assets, or activities in Delaware and currently is qualified as a foreign

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Bridge and the Massachusetts state line at North Canaan, Conn./Sheffield, Mass.; and HRRC owns the 36.3-mile portion between Sheffield and Pittsfield, Mass.

corporation in Connecticut, thus creating unnecessary corporate administration, expenses, and taxes.

The line transfer is a transaction within a corporate family exempted from prior review and approval under 49 CFR 1180.2(d)(3). Applicants state that the transaction will not result in adverse changes in service levels, significant operational changes, or any change in the competitive balance with carriers outside the corporate family. The reincorporation of HTC is the type of transaction specifically exempted from prior review and approval under 49 CFR 1180.2(d)(6).

Under 49 USC 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 applicants state that all of the carriers involved are Class III rail 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 March 29, 2013 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35723, 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 counsel for applicants, Edward J. Rodriguez, 8 Davis Road West, P.O. Box 687, Old Lyme, CT 06371.

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Decided: March 15, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner

Clearance Clerk

[FR Doc. 2013-06561 Filed 03/21/2013 at 8:45 am; Publication Date:  
03/22/2013]