



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35782]

Buckeye Railroad Holdings, LLC—Continuance in Control—Buckeye Hammond Railroad, LLC, and Buckeye East Chicago Railroad, LLC

Buckeye Railroad Holdings, LLC (BRH), has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Buckeye Hammond Railroad, LLC (BHRR), and Buckeye East Chicago Railroad, LLC (BECRR), both Class III rail carriers.

In November 2012, BECRR filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Buckeye Partners, L.P. (Buckeye), a noncarrier, and to operate approximately 7,065 feet of track, existing railroad right-of-way, and bulk liquid transloading facilities in East Chicago, Ind. Buckeye E. Chi. R.R.—Acquis. & Operation Exemption—Buckeye Partners, L.P., FD 35698 (STB served Nov. 30, 2012). In December 2012, BHRR filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Buckeye and to operate approximately 6,797 feet of track, existing railroad right-of-way, and bulk liquid transloading facilities in Hammond, Ind. Buckeye Hammond R.R.—Acquis. & Operation Exemption—Buckeye Partners, L.P., FD 35697 (STB served Jan. 3, 2013).

According to BRH, it owned and controlled both BECRR and BHRR before each became a Class III carrier. But BRH did not file for continuance in control authority until it filed this verified notice of exemption with the Board on November 4, 2013. Thus, the

effective date of the exemption is December 4, 2013 (30 days after the verified notice of exemption was filed).¹

BRH represents that: (1) BECRR and BHRR do not connect with each other or any railroads in their corporate family; (2) the continuance in control of BECRR and BHRR is not part of a series of anticipated transactions that would connect the railroads with each other or any railroads in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 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 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. Stay petitions must be filed no later than November 27, 2013 (at least 7 days before the exemption becomes effective).

¹ The class exemption invoked by BRH does not provide for retroactive effectiveness. See DMH Trust fbo Martha M. Head—Aquis. of Control Exemption—Red River Valley & W. R.R. & Rutland Line, Inc., FD 35649 (STB served Aug. 8, 2012).

An original and 10 copies of all pleadings, referring to Docket No. FD 35782, 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 Charles A. Spitulnik, Kaplan Kirsch & Rockwell LLP, 1001 Connecticut Avenue, N.W., Suite 800, Washington, DC 20036.

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Decided: November 14, 2013.

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

Derrick A. Gardner

Clearance Clerk

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