[FR Doc. 05–9711 Filed 5–13–05; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34687]

Patrick D. Broe and BNS Holdings, Inc.—Acquisition of Control Exemption—Nebraska, Kansas & Colorado RailNet, Inc., Illinois RailNet, Inc., and Georgia & Florida RailNet, Inc.

Patrick D. Broe (Mr. Broe) and BNS Holdings, Inc. (BNS Holdings), (collectively, applicants) have filed a verified notice of exemption to acquire control of the Nebraska, Kansas & Colorado RailNet, Inc. (NKCR), Illinois RailNet, Inc. (IR), and Georgia & Florida RailNet, Inc. (G&FR), all Class III rail carriers, operating in Colorado, Florida, Georgia, Illinois, Kansas and Nebraska.[1]

The proposed transaction was scheduled to be consummated on or shortly after May 2, 2005.

Mr. Broe is a noncarrier individual who directly controls BNS Holdings, a noncarrier company that currently controls RN Rail Holdings, Inc. (RN Rail), also a noncarrier. North America RailNet, Inc. (NA RailNet), is a noncarrier holding company that currently controls rail carriers NKCR, IR and G&FR. According to applicants, RN Rail will be merged into NA RailNet whereupon RN Rail will cease to exist and NA RailNet will be the surviving subsidiary of BNS Holdings. Applicants state that once the transaction is consummated, Mr. Broe and BNS Holdings will indirectly control NKCR, IR and G&FR via NA RailNet.[2]

Mr. Broe also directly controls OmniTRAX, Inc. (OmniTRAX), a noncarrier that currently controls 12 Class III rail carriers: Chicago Rail Link, LLC (CRL); Georgia Woodlands Railroad, LLC (GWRC); Great Western Railway of Colorado, LLC (GWR); Great Western Railway of Iowa LLC (GWRI); Manufacturers' Junction Railway, LLC (MJ); Newburgh and South Shore Railroad Limited (NSR); Northern Ohio & Western Railway, LLC (NOW); Panhandle Northern Railroad, LLC (PNR); Alliance Terminal Railroad, LLC (ATR); Fulton County Railway, LLC (FCR); Alabama & Tennessee River Railway, LLC (ATN); and Kettle Falls International Railway, LLC (KFR).

Applicants state that: (i) The rail lines operated by CRL, GWRC, GWR, GWRI, MJ, NSR, NOW, PNR, ATR, FCR, ATN, and KFR do not connect with the rail lines operated by NKCR, IR and G&FR; (ii) the transaction is not part of a series of anticipated transactions that would connect the rail lines operated by NKCR, IR and G&FR with any railroad in the OmniTRAX corporate family; and (iii) 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 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 sections 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34687, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on Karl Morell, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: May 9, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–9684 Filed 5–13–05; 8:45 am]

BILLING CODE 4915–01–P

[1] A redacted version of the Agreement and Plan of Merger was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for a protective order. A protective order was served on May 5, 2005.

[2] Applicants state that as soon as the transaction is closed NKCR will be renamed Nebraska, Kansas & Colorado Railway, Inc., IR will be renamed Illinois Railway, Inc., and G&FR will be renamed Georgia & Florida Railway, Inc.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34694]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF), pursuant to a written trackage rights agreement entered into with Union Pacific Railroad Company (UP), has agreed to grant local trackage rights to UP[1] over a BNSF line of railroad extending from BNSF milepost 11.3 at UP Junction, WA, to BNSF milepost 36.0 near Sprague, WA, a distance of approximately 24.7 miles.

The transaction was scheduled to be consummated on May 3, 2005.

The purpose of the trackage rights is to permit UP to move loaded and empty ballast trains for use in its maintenance-of-way projects.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34694 must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on T. Christopher Lewis, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

[1] The trackage rights are only temporary rights, but, because they are ''local'' rather than ''overhead'' rights, they do not qualify for the Board's class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). *See Railroad Consolidation Procedures—Exemption for Temporary Trackage Rights*, STB Ex Parte No. 282 (Sub-No. 20) (STB served May 23, 2003). Therefore, UP has concurrently filed a petition for partial revocation of this exemption in STB Finance Docket No. 34694 (Sub-No. 1), *Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company*, wherein UP requests that the Board permit the proposed local trackage rights arrangement described in this notice to expire on or about December 31, 2005. That petition will be addressed by the Board in a separate decision.