

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****[Docket No. FD 35686]****Pioneer Railcorp—Continuation in Control Exemption—Rail Switching Services, Inc.**

Pioneer Railcorp (Pioneer) and its subsidiaries¹ have filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Rail Switching Services, Inc. (RSS), upon RSS's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in *Rail Switching Services, Inc.—Operation Exemption—Pemiscot County Port Authority*, Docket No. FD 35685, wherein RSS seeks Board approval to operate over approximately 4.9 miles of rail line (the Line) owned by Pemiscot County Port Authority (PCPA) between the BNSF Railway Co. interchange at milepost 212.32, at Hayti, Mo., and milepost 217.22, at Pemiscot Port Harbor, on the Mississippi River between Hayti and Caruthersville, Mo.

The transaction may be consummated on or after November 14, 2012 (30 days after the notice of exemption was filed).

Pioneer represents that: (1) The Line does not connect with any railroads in the corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the Line with other railroads in the corporate family; 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 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

¹ Pioneer states that it owns 100% of the common stock of its 17 Class III rail carrier subsidiaries: West Michigan Railroad Co., originally West Jersey Railroad Co.; Fort Smith Railroad Co.; Shawnee Terminal Railroad Co., Inc.; Mississippi Central Railroad Co., originally Natchez Trace Railroad; Alabama & Florida Railway Co., Inc., d/b/a Ripley & New Albany Railroad Co., Inc.; Decatur Junction Railway Co.; Vandalia Railroad Company; Keokuk Junction Railway Co.; Keokuk Union Depot Company; Michigan Southern Railroad Company, originally Wabash & Grand River Railway Co.; Elkhart & Western Railroad Co.; Kendallville Terminal Railroad Co.; Pioneer Industrial Railway Co.; The Garden City Western Railway, Inc.; Indiana Southwestern Railway Co.; Gettysburg & Northern Railroad Co.; and Georgia Southern Railway Co.

labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified 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 7, 2012 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35686, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Daniel A. LaKemper, Pioneer Railcorp, 1318 S. Johanson Road, Peoria, IL 61607.

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

Decided: October 23, 2012.

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

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2012-26787 Filed 10-30-12; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****[Docket No. FD 35685]****Rail Switching Services, Inc.—Operation Exemption—Pemiscot County Port Authority**

Rail Switching Services, Inc. (RSS), a noncarrier, filed a verified notice of exemption under 49 CFR 1150.31¹ to operate approximately 4.9 miles of rail line owned by Pemiscot County Port Authority (PCPA) between the BNSF Railway Co. (BNSF) interchange at milepost 212.32, at Hayti, Mo., and milepost 217.22, at Pemiscot Port Harbor, on the Mississippi River between Hayti and Caruthersville, Mo (the Line).

According to RSS, it began performing contract switching services for PCPA in 2008 but has handled only empty storage cars. RSS states that, at the time, it was unaware that PCPA had obtained construction authority and was a

¹ RSS states that it is seeking an operation exemption pursuant to 49 CFR 1150.41. However, because RSS is not yet a Class III carrier, it must seek this authority pursuant to 49 CFR 1150.31. As such, the notice will be considered filed under 49 CFR 1150.31 instead.

common carrier. See *Pemiscot Cnty. Port Auth.—Constr. Exemption—Pemiscot Cnty., Mo.*, FD 34117 (STB served Aug. 26, 2003). According to RSS, at least one customer has located on the Line and wishes to receive shipments from the BNSF interchange. RSS now seeks an operation exemption for authority to operate over the Line.

This transaction is related to a concurrently filed verified notice of exemption in *Pioneer Railcorp—Continuance in Control Exemption—Rail Switching Services, Inc.*, Docket No. FD 35686, in which Pioneer Railcorp seeks to continue in control of RSS, upon RSS's becoming a Class III rail carrier.

The transaction may be consummated on or after November 14, 2012 (30 days after the notice of exemption was filed).

RSS certifies that its projected annual revenues as a result of this transaction will not result in RSS's becoming a Class I or Class II rail carrier and will not exceed \$5 million.

If the verified 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 November 7, 2012 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35685, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Daniel A. LaKemper, Rail Switching Services, Inc., 1318 S. Johanson Road, Peoria, IL 61607.

Board decisions and notices are available on our Web site at "WWW.STB.DOT.GOV."

Decided: October 25, 2012.

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

Jeffrey Herzig,
Clearance Clerk.

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DEPARTMENT OF THE TREASURY**Internal Revenue Service****Advisory Council to the Internal Revenue Service; Meeting**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.