

agreement for GITM to resell the track, rails, ties, ballast, culverts, and all other non-real property assets and an agreement to assign the lease to CSXT. Additionally, SOFR is entering into an agreement with CSXT whereby SOFR will be assigned the ownership of the track, rails, ties, ballast, culverts, and all other non-real property assets that comprise the Line and the lease of the real property from CSXT, thus succeeding SOFR as the lessee and operator of the Line. As a result, SOFR represents that CSXT will not acquire track, rails, ties, ballast, culverts, and all other non-real property assets, but will assign its rights under the agreements to SOFR prior to the termination of GITM's lease.

This transaction is related to a concurrently filed verified notice of exemption in *Watco Holdings, Inc.—Continuance in Control Exemption—Savannah & Old Fort Railroad, L.L.C.*, Docket No. FD 36337, in which Watco Holdings, Inc., seeks Board approval to continue in control of SOFR upon SOFR's becoming a Class III carrier.

SOFR states that the proposed transaction does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier. SOFR certifies that its projected annual revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier and will not exceed \$5 million.

Under 49 CFR 1150.32(b), a change in operators requires that notice be given to shippers. SOFR certifies that it has provided notice of the proposed change in operator to all shippers located on the Line.

The earliest this transaction may be consummated is August 29, 2019 (30 days after the verified notice was filed).

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 August 22, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36336, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on SOFR's representative, Karl Morell, Karl Morell and Associates, 440 1st Street NW, Suite 440, Washington, DC 20001.

According to SOFR, this action is excluded from environmental review

under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

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

Decided: August 12, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

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SURFACE TRANSPORTATION BOARD

[Docket No. FD 36288]

OmniTRAX Holdings Combined, Inc. and HGS Railway Holdings, Inc.—Continuance in Control Exemption—Cleveland & Cuyahoga Railway, LLC

OmniTRAX Holdings Combined, Inc. (OmniTRAX), and HGS Railway Holdings, Inc. (HGS), both noncarriers, (collectively, Applicants) have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Cleveland & Cuyahoga Railway, LLC (CCR) upon CCR's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in *Cleveland & Cuyahoga Railway—Change in Operator Exemption Containing Interchange Commitment—Cleveland Commercial Railroad*, Docket No. FD 36287. In that proceeding, CCR seeks an exemption under 49 CFR 1150.31 to acquire by assignment from Cleveland Commercial Railroad Company, LLC (Cleveland Commercial): (1) A lease agreement between Wheeling & Lake Erie Railway Company and Cleveland Commercial; and (2) a lease agreement between Norfolk Southern Railway Company and Cleveland Commercial. Upon consummation, CCR will replace Cleveland Commercial as the lessee and operator of approximately 35.7 miles of railroad line as follows: (1) A 10.4-mile rail line located in Cuyahoga County, Ohio, between milepost 15.5 at Falls Junction in Glenwillow, and milepost 5.1 in Cleveland; and (2) a 25.3-mile rail line located in Cuyahoga and Portage Counties, Ohio, between milepost RH 2.2+/- in Cleveland, and milepost RH 27.5+/- in Aurora (collectively, the Lines).

The earliest this transaction may be consummated is August 30, 2019.¹

¹ The verified notices in Docket Nos. FD 36287 and FD 36288 were initially submitted on April 1, 2019. On April 15, 2019, CCR requested that the Board hold both dockets in abeyance until it could

Applicants will continue in control of CCR upon CCR's becoming a Class III rail carrier. According to Applicants, OmniTRAX currently controls 18 Class III railroads and HGS currently controls two Class III railroads, and the properties of the rail carriers controlled by OmniTRAX and HGS are located in the following states: Alabama, California, Colorado, Florida, Georgia, Illinois, Kansas, Nebraska, Ohio, Oklahoma, Texas, and Washington.²

Applicants state that: (1) The Lines to be operated by CCR do not connect with any other railroads operated by carriers controlled by OmniTRAX or HGS; (2) the continuance in control is not part of a series of anticipated transactions that would connect the Lines with any other railroads in the OmniTRAX or HGS corporate families; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed 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. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 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 verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the

complete negotiations regarding the NS Line, and the request was granted. On July 16, 2019, CCR notified the Board that it had completed its negotiations and requested that the Board process the verified notices in both dockets. On July 31, 2019, CCR filed a supplement in Docket No. FD 36287 clarifying that that proceeding should be a change in operator exemption and providing the most recent version of the lease agreement. In light of that supplement, July 31 is deemed the filing date of the change in operator exemption in Docket No. FD 36287, and its effective date is August 30, 2019. Because this continuance in control exemption is exercised only when the change in operator transaction is consummated, its effective date likewise will be August 30, 2019.

² Specifically, OmniTRAX currently controls: Alabama & Tennessee River Railway, LLC; Brownsville & Rio Grande International Railway, LLC; Chicago Rail Link, LLC; Fulton County Railway, LLC; Georgia & Florida Railway, LLC; Georgia Woodlands Railroad, LLC; Great Western Railway of Colorado, LLC; Illinois Railway, LLC; Kettle Falls International Railway, LLC; Manufacturers' Junction Railway, LLC; Nebraska, Kansas & Colorado Railway, LLC; Newburgh & South Shore Railroad, LLC; Northern Ohio & Western Railway, LLC; Panhandle Northern Railway, LLC; Peru Industrial Railroad, LLC; Sand Springs Railway Company; Stockton Terminal and Eastern Railroad; and Central Texas & Colorado River Railway LLC. HGS currently controls HGS-ATN, LLC and HGS-FCR, LLC.

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 to stay must be filed no later than August 23, 2019.

All pleadings, referring to Docket No. FD 36288, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Applicants' representative, Karl Morell, Karl Morell and Associates, 440 1st Street NW, Suite 440, Washington, DC 20001.

According to Applicants, this action is excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

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

Decided: August 12, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

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SURFACE TRANSPORTATION BOARD

[Docket No. FD 36287]

Cleveland & Cuyahoga Railway, LLC— Change in Operator Exemption Containing Interchange Commitment— Cleveland Commercial Railroad Company, LLC

Cleveland & Cuyahoga Railway, LLC (CCR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Cleveland Commercial Railroad Company, LLC (Cleveland Commercial) two lease agreements and to operate approximately 35.7 miles of rail line as follows: (1) A 10.4-mile rail line located in Cuyahoga County, Ohio, between milepost 15.5 at Falls Junction in Glenwillow, and milepost 5.1 in Cleveland (the W&LE Line); and (2) a 25.3-mile rail line located in Cuyahoga and Portage Counties, Ohio, between milepost RH 2.2+/- in Cleveland, and milepost RH 27.5+/- in Aurora (the NS Line) (collectively, the Lines).

The verified notice states that Cleveland Commercial entered into an agreement with the Wheeling & Lake Erie Railway Company in 2004 to lease and operate the W&LE Line, *see Cleveland Commercial R.R.—Change in Operators Exemption—Wheeling & Lake Erie Ry.*, FD 34521 (STB served Aug. 6,

2004), and an agreement with Norfolk Southern Railway Company in 2009 to lease and operate the NS Line, *see Cleveland Commercial R.R.—Lease & Operation Exemption—Norfolk Southern Ry.*, FD 35251 (STB served May 29, 2009).

According to CCR, Cleveland Commercial and CCR now have entered into an agreement under which Cleveland Commercial will assign both leases to CCR. As a result, CCR will replace Cleveland Commercial as the lessee and operator of the Lines.

This transaction is related to a concurrently filed verified notice of exemption in *OmniTRAX Holdings Combined, Inc.—Continuance in Control Exemption—Cleveland & Cuyahoga Railway*, Docket No. FD 36288, in which OmniTRAX Holdings Combined, Inc., and HGS Railway Holdings, Inc., both noncarriers, seek Board approval to continue in control of CCR under 49 CFR 1180.2(d)(2) upon CCR's becoming a Class III rail carrier.¹

CCR certifies that its projected annual revenues as a result of the transaction will not result in the creation of a Class II or Class I carrier and will not exceed \$5 million. As required under 49 CFR 1150.33(h)(1), CCR has disclosed in its verified notice that the lease agreement governing the NS Line contains an interchange commitment in the form of lease credits.² CCR has provided additional information regarding the interchange commitment as required by 49 CFR 1150.33(h).

Under 49 CFR 1150.32(b), a change in operators requires that notice be given to shippers. In its July 31, 2019 supplement, CCR states that it has provided notice of the proposed transaction to all active shippers on the Lines in the last two years.

The earliest this transaction may be consummated is August 30, 2019 (30 days after the verified notice was filed).³ If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the

¹ The verified notices in Docket Nos. FD 36287 and FD 36288 were initially submitted on April 1, 2019. On April 15, 2019, CCR requested that the Board hold both dockets in abeyance until it could complete negotiations regarding the NS Line, and the request was granted. On July 16, 2019, CCR notified the Board that it had completed its negotiations and requested that the Board process the verified notices in both dockets. On July 31, 2019, CCR filed a supplement clarifying that Docket No. FD 36287 should be a change in operator exemption and providing the most recent version of the lease agreement.

² A copy of the lease agreement with the interchange commitment was submitted under seal. *See* 49 CFR 1150.33(h)(1).

³ The date of CCR's supplement (July 31, 2019) will be considered the filing date for the purposes of calculating the effective date of the exemption.

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 36287, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on CCR's representative, Karl Morell, Karl Morell and Associates, 440 1st Street NW, Suite 440, Washington, DC 20001.

According to CCR, this action is excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

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

Decided: August 12, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

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SURFACE TRANSPORTATION BOARD

[Docket No. FD 36337]

Watco Holdings, Inc.—Continuance in Control Exemption—Savannah & Old Fort Railroad, L.L.C.

Watco Holdings, Inc. (Watco), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Savannah & Old Fort Railroad, L.L.C. (SOFR), upon SOFR's becoming a Class III carrier. Watco owns, indirectly, 100% of the issued and outstanding stock of SOFR.

This transaction is related to a concurrently filed verified notice of exemption in *Savannah & Old Fort Railroad—Change in Operator Exemption—Golden Isles Terminal Railroad*, Docket No. 36336, in which SOFR seeks an exemption under 49 CFR 1150.31 to acquire from CSX Transportation, Inc., by assignment of lease, and to operate, approximately 6.45 miles of rail line between milepost ASO 493.3 at or near Staley Avenue and milepost ASO 499.75 at the end of the line, in Savannah, Ga. (the Line). Upon consummation of the transaction in Finance Docket No. 36336, SOFR would become a Class III carrier.