

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36687]

Rio Grande Pacific Corporation—Continuance in Control Exemption—Bogalusa and Northern Railway, LLC

Rio Grande Pacific Corporation (RGPC), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Bogalusa and Northern Railway, LLC (BNR), upon BNR's becoming a Class III rail carrier. RGPC owns, indirectly, 100 percent of the issued and outstanding stock of BNR, a limited liability company.

This transaction is related to a concurrently filed verified notice of exemption in Bogalusa & Northern Railway—Change in Operator Exemption—Bogalusa Bayou Railroad, Docket No. FD 36686, in which BNR seeks Board approval to acquire overhead trackage rights over a one-mile line owned by Illinois Central Railroad Company (IC) extending between milepost 68.85, at Lees Creek, La., and milepost 69.85, at Bogalusa, La.

RGPC currently controls four Class III railroads: Nebraska Central Railroad Company; New Orleans & Gulf Coast Railway Company; Wichita, Tillman & Jackson Railway Company; and Idaho Northern & Pacific Railroad Company.

RGPC represents that: (1) the rail lines operated by the RGPC carriers do not connect with the rail line to be operated by BNR; (2) the transaction is not part

of a series of anticipated transactions that would connect the rail line to be operated by BNR with any railroad in the RGPC 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 C.F.R. § 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, because this transaction involves Class III rail carriers only, the Board may not impose labor protective conditions here.

The earliest this transaction may be consummated is June 9, 2023, the effective date of the exemption (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(g) 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 by June 2, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36687, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading

must be served on BNR's representative, Karl Morell, Karl Morell & Associates, 440 1st Street, N.W., Suite 440, Washington, DC 20001.

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

Decided: May 22, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.