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SURFACE TRANSPORTATION BOARD

[Docket No. FD 36816]

Paul Didelius, CWW LLC, and KET LLC—Intra-Corporate Family Transaction
Exemption—CWW LLC and KET LLC

Paul Didelius (Didelius), CWW LLC (CWW), and KET LLC (KET) (collectively, Applicants), have filed a verified notice of exemption for an intra-corporate family transaction under 49 CFR 1180.2(d)(3). CWW and KET, both Class III rail carriers, are controlled by Didelius, a noncarrier individual, along with other Class III rail carriers.¹ The verified notice seeks authority for an intra-corporate family transaction pursuant to which CWW and KET will merge, with CWW the surviving carrier.

Applicants state that the proposed merger of CWW and KET will promote efficiencies within the Didelius corporate family of short line railroads by reducing duplicative corporate and administrative functions and related overhead costs. According to the verified notice, CWW and KET are proposed to be merged under an “Articles of Merger” that is not yet finalized.²

Applicants state that the Articles of Merger that will govern the proposed transaction do not include an interchange commitment under 49 CFR 1180.4(g).

¹ Paul Didelius—Continuance in Control Exemption—Rainier Rail LLC, FD 36659 et al. (STB served May 1, 2023).

² A draft copy of the Articles of Merger was included with the verified notice.

The verified notice states that the proposed transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(3).

Unless stayed, the exemption will be effective on November 23, 2024 (30 days after the verified notice was filed). The verified notice states that CWW and KET intend to consummate the proposed transaction on or after the effective date of the exemption.

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 rail 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. Petitions for stay must be filed no later than November 15, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36816, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Applicants' representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

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

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

Decided: November 5, 2024.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.