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SERVICE DATE - NOVEMBER 18, 1998

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33674]

Livonia, Avon & Lakeville Railroad Corporation--Acquisition of Control Exemption--

Ontario Central Railroad Corporation

Livonia, Avon & Lakeville Railroad Corporation (LAL), a Class III rail carrier, has filed a verified notice of exemption to acquire a controlling interest, through stock purchase, of Ontario Central Railroad Corporation (ONCT), a Class III rail carrier, which operates 14 miles of rail line between West Victor and Shortsville, NY.¹

LAL owns and operates approximately 30 miles of rail line between Genessee Junction yard in Chili, NY, immediately south of Rochester, and Lakeville, NY. LAL also separately operates approximately 35 miles of track between Hammondsport, Bath and Wayland, NY, which is owned by the Steuben County Industrial Development Authority.²

¹ See Ontario Central Railroad Corporation--Operations--Between Shortsville and Victor, NY, Finance Docket No. 29761 (ICC served Nov. 3, 1981) (Modified Rail Certificate), and Certificate of Designated Operator-Ontario Central Railroad Corp., D-OP 33 (U.S.R.A. Line No. 98/1022), Cancellation of Certificate of Designate Operation--Consolidated Rail Corporation, D-OP 6 (U.S.R.A. Line No. 98/1022) (ICC served Sept. 28, 1979).

² See Livonia, Avon & Lakeville Railroad Corp.--Acquisition and Operation Exemption--Steuben County Industrial Development Agency, STB Finance Docket No. 32941 (STB served May 22, 1996).

Under the terms of an agreement with ONCT, LAL will acquire 3,000 shares of ONCT's treasury stock and 8,900 shares of ONCT's stock, which is currently authorized but unissued.

The earliest the transaction could be consummated was October 30, 1998, the effective date of the exemption (7 days after the exemption was filed).

LAL states that: (i) the railroads do not connect with each other; (ii) the transaction is not part of a series of anticipated transactions that would connect the railroads with each other; and (iii) 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 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. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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. 33674, must be filed with the Office of the Secretary, Case Control Unit, Surface

Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on Kevin M. Sheys, Oppenheimer Wolff Donnelly & Bayh LLP, 1350 Eye St., N.W., Suite 200, Washington, DC 20005.

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Decided: November 10, 1998.

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

Vernon A. Williams

Secretary