

40476

SERVICE DATE – DECEMBER 24, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35335]

Freedom Rail Management, LLC—Acquisition of Control Exemption—Columbia & Reading Railway Co.

Freedom Rail Management, LLC (FRM), a noncarrier, has filed a verified notice of exemption to acquire control of Columbia & Reading Railway Co. (CORY), a class III rail carrier. Pursuant to a Membership Interest Purchase Agreement between FRM and Railway Management, Inc. (RMI),¹ FRM seeks to purchase a 51 percent membership interest in CORY.² FRM currently controls Claremont Concord Railroad (CCRR), a Class III rail carrier. CCRR owns 2 miles of rail line in Claremont, NH, and leases 2 miles of rail line in Lebanon, NH, from the New Hampshire Department of Transportation.

The transaction is expected to be consummated on or after January 10, 2010, the effective date of the exemption.

FRM states that: (i) the railroads will not connect with each other; (ii) the acquisition of control 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.

¹ RMI is a noncarrier that currently holds a 100% ownership interest in CORY.

² CORY owns 2.5 miles of rail line in Lancaster County, PA.

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 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 transaction.

An original and 10 copies of all pleadings referring to STB Finance Docket No. 35335, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Jeffrey O. Moreno, 1920 N Street, N.W., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: December 18, 2009.

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