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SERVICE DATE – MAY 24, 2012

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35623]

Cleveland Commercial Railroad Company, LLC—Continuance in Control

Exemption—Cleveland Harbor Belt Railroad

Cleveland Commercial Railroad Company, LLC (CCR), a Class III rail carrier, has filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of Cleveland Harbor Belt Railroad (CHB), upon CHB's becoming a Class III rail carrier. CCR has established CHB as a limited liability company and has the entire ownership interest in CHB.

This transaction is related to a concurrently filed verified notice of exemption in Cleveland Harbor Belt Railroad—Operation Exemption—Cleveland-Cuyahoga County Port Authority, Docket No. FD 35624, wherein CHB seeks Board approval to operate approximately one mile of terminal railroad trackage currently owned by Cleveland-Cuyahoga County Port Authority (the Port), in Cleveland, Ohio, and operated as exempt private trackage by CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway.

The transaction may be consummated on or after June 7, 2012 (30 days after the notice of exemption was filed).

CCR represents that: (1) the rail line to be operated by CHB will not connect with the lines currently operated by CCR; (2) the continuance in control is not part of a series of anticipated transactions that would result in such a connection; 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. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of 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 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 May 31, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35623, 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 John D. Heffner, 1700 K Street, N.W., Suite 640, Washington, DC 20006.

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Decided: May 21, 2012.

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