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SERVICE DATE - JULY 30, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33784]

Penn Virginia Corporation—Continuance in Control Exemption—Kanawha Rail Corp.

Penn Virginia Corporation (Penn Virginia) has filed a notice of exemption to continue in control of the Kanawha Rail Corp. (Kanawha),¹ upon Kanawha's becoming a Class III railroad.

The transaction is scheduled to be consummated on July 29, 1999, the effective date of the exemption (7 days after the notice of exemption was filed).

This transaction is related to STB Finance Docket No. 33783, Kanawha Rail Corp.—Acquisition and Operation Exemption—Winifrede Railroad Company, wherein Kanawha seeks to acquire and operate approximately 6.47 miles of rail line together with associated rail properties from the Winifrede Railroad Company.

Penn Virginia indirectly exercises control over the Powell River Railroad Company (PRR). PRR is wholly owned by the Powell River Railroad Corporation (PRCC). PRCC, in turn, is wholly owned by Penn Virginia.

¹ Kanawha was formerly known as Penn Virginia Resources Marketing Corporation.

Penn Virginia states that: (i) the rail line to be operated by Kanawha does not connect with the PRR (the only other railroad controlled by Penn Virginia); (ii) the transaction is not part of a series of anticipated transactions that would connect Kanawha with the PRR; 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. 33784, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kelvin J. Dowd, Esq., Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

STB Finance Docket No. 33784

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

Decided: July 23, 1999.

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

Vernon A. Williams

Secretary