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SERVICE DATE – JULY 15, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35384]

US Rail Partners, Ltd. and Blackwell Northern Gateway Railroad Company—

Continuance in Control Exemption—Eastern Berks Gateway Railroad Company

US Rail Partners, Ltd. (USRP), a noncarrier holding company, and Blackwell Northern Gateway Railroad Company (BNGR), a Class III carrier, have filed a verified notice of exemption to continue in control of Eastern Berks Gateway Railroad Company (EBGR), upon EBGR's becoming a rail carrier.<sup>1</sup>

USRP and BNGR state that the transaction is expected to be consummated on August 1, 2010. The earliest this transaction may be consummated is July 29, 2010, the effective date of the exemption (30 days after the exemption was filed).

Applicants state that EBGR intends to file a notice for a modified certificate of public convenience and necessity in STB Finance Docket No. 35383, Eastern Berks Gateway Railroad Company—Modified Rail Certificate, wherein EBGR seeks to lease and operate approximately 8.6 miles of railroad, known as the Colebrookdale Line, from Berks County, Pa.

USRP currently controls through stock ownership two Class III rail carriers: BNGR and the Eastern Washington Gateway Railroad Company (EWGR). BNGR

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<sup>1</sup> EBGR is wholly owned by BNGR and indirectly controlled by USRP.

operates approximately 35 miles of rail line between Wellington, Kan., and Blackwell, Okla. EWGR operates approximately 114 miles of rail line in the State of Washington.

USRP and BNGR state that: (i) the railroads will not connect with each other or any railroads within its corporate family, (ii) the transaction is not a part of a series of anticipated transactions that would connect any of these railroads with one another or any other railroad, and (iii) the transaction does not involve a Class I railroad. 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 sections 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 transaction. Petitions for stay must be filed no later than July 22, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35384, 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 William C.

Sippel, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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Decided: July 12, 2010.

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