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SERVICE DATE - APRIL 24, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33385]

Railroad Ventures, Inc.--Acquisition and Operation Exemption--Youngstown & Southern
Railroad Company

Railroad Ventures, Inc. (RVI), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31(a)(1) to acquire and operate approximately 35.7 miles of line purportedly owned by Youngstown & Southern Railroad Company (Y&S),¹ extending from milepost 0.00, near Struthers, OH, to milepost 35.7, near Darlington, PA, and an additional 1-mile segment of the Smith Ferry Branch line near Negley, OH. Pursuant to the exemption, RVI also will acquire incidental trackage rights over a 2.65-mile of line between Struthers and Youngstown, OH, for the purposes of interchange with Consolidated Rail Corporation and CSX Transportation, Inc.²

¹ RVI states that Y&S is a nonoperating railroad and a wholly owned subsidiary of the Montour Railroad Company (Montour), a nonoperating railroad, which in turn is a wholly owned subsidiary of Pittsburgh and Lake Erie Properties, Inc., the successor in interest to The Pittsburgh and Lake Erie Railroad Company. Pittsburgh and Lake Erie Properties, Inc., is a noncarrier and is presently in bankruptcy proceedings before the United States Federal District Court in Delaware. *In re Pittsburgh & Lake Erie Properties, Inc. AKA The Pittsburgh and Lake Erie Railroad Company*, 96-00406-HSB, filed March 26, 1996. Neither Montour nor Y&S are Debtors in the Pittsburgh and Lake Erie Properties, Inc., bankruptcy proceeding.

² On April 8, 1997, the Ohio Rail Development Commission and the Columbiana County Port Authority jointly filed a petition to reject, revoke, or stay the notice of exemption. Petitioners did not address the Board's stay criteria, and the exemption was not

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The transaction was consummated without appropriate authority on November 8, 1996.³

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time.⁴ The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33385, 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

²(...continued)

stayed prior to its scheduled effectiveness on April 9, 1997. Because RVI appears to have provided sufficient information to invoke the class exemption for noncarriers to acquire and operate an active line of railroad and also to have provided responses to questions asked in the decision that rejected RVI's first attempt to invoke this class exemption, the notice will not be rejected at this time. *See Railroad Ventures, Inc.--Acquisition and Operation Exemption--Youngstown and Southern Railway Company*, STB Finance Docket No. 33336 (STB served Jan. 9, 1997). The merits of the petition to revoke, and, to the extent necessary or appropriate, the petition to reject, will be decided by the entire Board in a subsequent decision.

³ Upon becoming aware of the need for the Board's approval or exemption of the transaction, RVI took steps to invoke the class exemption procedures in STB Finance Docket No. 33336.

⁴ The Ohio Rail Development Commission and Columbiana County Port Authority have filed a petition for declaratory order asking that the acquisition by RVI be declared void *ab initio* in STB Docket No. 41991, *Ohio Rail Development Commission and Columbiana County Port Authority--Petition for Declaratory Order--Certain Actions of Railroad Ventures, Inc.* This proceeding is currently pending.

each pleading must be served on John A. Vuono, Esq., Vuono & Gray, LLC, 2310 Grant Building, Pittsburgh, PA 15219.

Decided: April 16, 1997.

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

Vernon A. Williams

Secretary