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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33291]
Genesee & Wyoming Inc.--Control Exemption--Rail Link, Inc.

Genesee & Wyoming Inc. (GWI), a noncarrier holding company, has filed a notice of exemption to acquire control through stock ownership of Rail Link, Inc. (Rail Link), a noncarrier holding company. Rail Link controls three separate Class III railroads as follows: Carolina Coastal Railway, Inc. (CLNA); Commonwealth Railway, Inc. (CWRV); and Talleyrand Terminal Railroad (TRR).¹

The transaction will be consummated on or after November 8, 1996.

GWI controls 11 existing Class III carrier subsidiaries: Genesee & Wyoming Railroad Company, Inc., operating in western New York; Dansville and Mount Morris Railroad Company, operating in New York; Rochester & Southern Railroad, Inc., operating in New York; Louisiana Delta Railroad, Inc., operating in Louisiana; Buffalo Pittsburgh Railroad, Inc., operating in New York and Pennsylvania; Bradford Industrial Rail, Inc., operating in Pennsylvania and New York; Allegheny & Eastern Railroad, Inc., operating in Pennsylvania; Willamette & Pacific Railroad, Inc., operating in Oregon; GWI Switching Services, operating in Texas; Illinois & Midland Railroad, Inc., operating in Illinois; and Pittsburgh & Shawmut Railroad, Inc., operating in Pennsylvania.

GWI states that (i) CLNA, CWRV, and TRR will not connect with any railroad in the GWI corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the Rail Link subsidiaries with any railroad in the GWI corporate family; 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. 33291, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW, Washington, DC 20423. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin, & Ewing, P.C., 213 W. Miner Street, P.O. Box 796, West Chester, PA 19381-0796.

Decided: November 7, 1996.

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

Vernon A. Williams
Secretary

¹GWI is acquiring all of the outstanding capital stock of Rail Link and will indirectly control CLNA, CWRV, and TRR.