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SERVICE DATE - MAY 6, 2002

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34193]

Toledo, Peoria & Western Railway Corporation–Corporate Family Merger Transaction
Exemption

Toledo, Peoria & Western Railroad Corporation (TPWRR), Marksman Corp. (Marksman), Toledo, Peoria & Western Railway Corporation (TPWRY), and Florida Rail Lines, Inc. (Florida Rail), have jointly filed a verified notice of exemption under the Board's class exemption procedure at 49 CFR 1180.2(d)(3).¹ The exempt transaction is a corporate reorganization which involves the merger of TPWRR, TPWRY, and Florida Rail into Marksman. After the merger, Marksman, the surviving corporation, will change its name to Toledo, Peoria & Western Railway Corporation.

The transaction was scheduled to be consummated on or shortly after April 15, 2002, the effective date of the exemption.

The transaction is intended to simplify the corporate structure and reduce overhead costs and duplication by eliminating three corporations while retaining the same assets to serve customers.

¹ Florida Rail, a noncarrier, directly controls TPWRR, which in turn directly controls Marksman, and Marksman directly controls TPWRY. Florida Rail is directly controlled by RailAmerica Transportation Corp., which is directly controlled by Palm Beach Rail Holding, Inc., a wholly owned subsidiary of RailAmerica, Inc.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

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 reopen the proceeding 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. 34193, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street NW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Ball Janik LLP, Suite 225, 1455 F Street NW, Washington, DC 20005.

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Decided: April 25, 2002.

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

Vernon A. Williams

Secretary