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SERVICE DATE – NOVEMBER 14, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35193]

Steven C. May—Continuance in Control Exemption—Lehigh Railway, LLC.

Steven C. May (May), a noncarrier, has filed a verified notice of exemption to continue in control of Lehigh Railway, LLC. (LRWY), upon LRWY's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35192, Lehigh Railway, LLC.—Lease and Operation Exemption—Norfolk Southern Railway Company. In that proceeding, LRWY seeks an exemption under 49 CFR 1150.31 to lease from Norfolk Southern Railway Company (NSR) and to operate approximately 56.0 miles of rail line, including any sidings, sidetracks, yards or facilities presently owned by NSR that are accessed via the line, between specified points in Pennsylvania. In addition, LRWY shall have operating rights to certain designated track north of milepost IS 269.5 extending into Sayre, PA, solely for interchange with NSR.

The parties intend to consummate the transaction soon after the November 29, 2008 effective date of the exemption.

May either directly or indirectly controls two Class III rail carriers: Luzerne and Susquehanna Railway Company (LS); and the Owego & Harford Railway, Inc. (OHRY).

May represents that: (1) the rail lines to be leased and operated by LRWY do not connect with the rail lines of any existing carrier owned or operated by May; (2) this continuance in control is not part of a series of anticipated transactions that would result in such a connection; and (3) this control transaction does not involve a Class I rail 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. 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 effectiveness of the exemption. Stay petitions must be filed no later than November 21, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35193, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Janie Sheng, K&L Gates LLP, 1601 K Street, N.W., Washington, DC 20006.

Board decisions and notices are available on our website at  
“[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: November 7, 2008.

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

Anne K. Quinlan

Acting Secretary