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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33412]

Peter A. Gilbertson, H. Terry Hearst, Bruce A. Lieberman, R. Lawrence McCaffrey, Jr., Harold F. Parmly, and Anacostia Rail Holdings Company—Continuance in Control Exemption—Pacific Harbor Line, Inc.

Peter A. Gilbertson, H. Terry Hearst, Bruce A. Lieberman, R. Lawrence McCaffrey, Jr., and Harold F. Parmly (Gilbertson, et al.), noncarrier individuals, and Anacostia Rail Holdings Company (ARC), a noncarrier holding company, (collectively Applicants) have filed a verified notice of exemption to continue in control of Pacific Harbor Line, Inc. (PHL) upon PHL's becoming a Class III rail carrier.

The transaction was expected to be consummated on or after November 15, 1997.

This transaction is related to STB Finance Docket No. 33411, Pacific Harbor Line, Inc.—Operation Exemption—Port of Los Angeles, in which PHL seeks to acquire operating rights within the City of Los Angeles' Port of Los Angeles (POLA) to provide switching service on track owned by POLA.

Applicants own and control two existing Class III common carriers by rail: Louisville & Indiana Railroad Company, operating in Southern Indiana and Northern Kentucky; and the New York & Atlantic Railway Company, operating within the State of New York. With the exception of R. Lawrence McCaffrey, Jr., each of Gilbertson, et al. is an officer and/or director of the Chicago SouthShore & South Bend Railroad Corporation

(CSS), a Class III common carrier by rail, operating in Northern Illinois and Northern Indiana. In addition, Gilbertson et al. are minority shareholders in CSS's corporate general partner SouthShore Corporation, a noncarrier.

Applicants state that: (i) the railroads will not connect with each other or any railroad in their corporate family; (ii) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their 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. 33412, 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

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each pleading must be served on Mark H. Sidman, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005-4797.

Decided: November 24, 1997.

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

Vernon A. Williams

Secretary