

upon its acquiring the Line and becoming a rail carrier subsidiary of Transtar. FTAI Infrastructure is managed by an affiliate of Fortress and indirectly controls PALLC and Transtar, which currently owns and directly controls five non-connecting railroad subsidiaries: Union Railroad Company, LLC; Gary Railway Company; Delray Connecting Railroad Company; Texas & Northern Railway Company; and The Lake Terminal Railroad Company. Another Fortress affiliate, Brightline Holding LLC, owns DesertXpress Enterprises, LLC (DXE), a common carrier railroad authorized to construct a high-speed passenger rail line in California and Nevada. *See DesertXpress Enters., LLC—Constr. & Operation Exemption—in Victorville, Cal. & Las Vegas, Nev., FD 35544* (STB served Oct. 25, 2011).

Fortress states that: (1) the Line does not connect with the lines of any of the rail common carriers currently owned by Transtar, nor would it connect with the proposed DXE passenger rail line; (2) this control transaction is not part of a series of anticipated transactions that would connect any of those rail common carriers; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed 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. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 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.

The earliest this transaction may be consummated is April 16, 2023, the effective date of the exemption (30 days after the verified notice was filed). 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. Petitions to stay must be filed no later than April 7, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36683, should be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street SW,

Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Fortress's representative, Terence M. Hynes, Sidley Austin LLP, 1501 K Street NW, Washington, DC 20005.

According to Fortress, this action is excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: March 28, 2023.

By the Board, Mai T. Dinh, Office of Proceedings.

**Stefan Rice,**  
Clearance Clerk.

[FR Doc. 2023-06727 Filed 3-30-23; 8:45 am]

**BILLING CODE 4915-01-P**

## **SURFACE TRANSPORTATION BOARD**

**[Docket No. FD 36682]**

### **East Ohio Valley Railway LLC— Acquisition and Operation Exemption—Ohio River Partners Shareholder LLC**

East Ohio Valley Railway LLC (EOVR), a non-carrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Ohio River Partners Shareholder LLC (ORPS), and operate, an approximately 12.2-mile rail line between milepost 60.5 near Powhatan Point, Ohio, and milepost 72.7 near Hannibal, Ohio (the Line).

This transaction is related to a concurrently filed verified notice of exemption in *Fortress Investment Group LLC—Continuance in Control Exemption—East Ohio Valley Railway LLC*, Docket No. FD 36683, in which Fortress Investment Group, FTAI Infrastructure Inc. (FTAI Infrastructure), Percy Acquisition LLC, and Transtar, LLC (Transtar), seek to continue in control of EOVR upon EOVR's becoming a Class III rail carrier.

According to the verified notice, EOVR and ORPS will enter into an asset purchase agreement in connection with the transaction.<sup>1</sup> The parties intend to consummate the proposed transaction as soon as practicable after the effective date of the exemption and the satisfaction of all other conditions precedent to closing set forth in the asset purchase agreement.<sup>2</sup>

<sup>1</sup> EOVR states that a copy of the agreement will be submitted to the Board when it is executed.

<sup>2</sup> The Line is currently operated by Katahdin Railcar Services, LLC (KRS), a Class III carrier and affiliate of EOVR and ORPS, pursuant to a lease with ORPS. *See Fortress Inv. Grp. LLC—Exemption for Intra-Corp. Fam. Transaction—Ohio River*

EOVR certifies that the transaction does not involve any provision or agreement that may limit future interchange with a third-party connecting carrier, nor is the Line currently subject to any agreement that imposes such an interchange commitment.

EOVR further certifies that its projected annual revenues resulting from the transaction will not exceed \$5 million and will not result in EOVR's becoming a Class I or Class II rail carrier.

The earliest this transaction may be consummated is April 16, 2023, the effective date of the exemption (30 days after the verified notice was filed).

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. Petitions for stay must be filed no later than April 7, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36682, should be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on EOVR's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue NW, #300, Washington, DC 20037.

According to EOVR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: March 28, 2023.

By the Board, Mai T. Dinh, Office of Proceedings.

**Stefan Rice,**  
Clearance Clerk.

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*Partners Shareholder LLC*, FD 36402 (STB served May 15, 2020); *see also Katahdin Railcar Servs. LLC—Change in Operators Exemption—Ohio Terminal Ry.*, FD 36487 (STB served Mar. 30, 2021). According to the verified statement, KRS will continue to operate the Line until EOVR can complete arrangements to assume operations.