

Peninsula Corridor, which includes the Line. (Pet. 3; *see also id.*, Ex. B.) The second is the 1991 Real Property Ownership Agreement, as amended in 2008 (RPOA), which establishes ownership rights with respect to the Line and various other properties along the Peninsula Corridor among JPB and its member agencies. (Pet. 3; *see also id.*, Exs. C, C–1.) Pursuant to Sections 4.1 and 7.8 of the RPOA, SamTrans is to transfer its tenant-in-common interest in the Line to JPB upon the fulfillment of certain financial conditions. (Pet. 3.) The third is the 1996 Joint Powers Agreement between JPB and its member agencies, which delegates management and operations of the Line to SamTrans. (*Id.* at 3–4; *see also id.*, Ex. D.)

With the conditions established in the RPOA and its amendment satisfied, pursuant to a memorandum of understanding dated August 5, 2022, JPB will now acquire all ownership interest in the Line, with SamTrans remaining the managing agency for the management and operations of the Line. (Pet. 4; *see also id.*, Ex. E.)

#### Discussion and Conclusions

Under 49 U.S.C. 11323(a)(3), the acquisition of control of a rail carrier by any number of rail carriers requires prior Board approval. Under 49 U.S.C. 10502(a), however, the Board shall, to the maximum extent consistent with 49 U.S.C. subtitle IV, part A, exempt a transaction or service from regulation when it finds that: (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101 (RTP); and (2) either (a) the transaction or service is limited in scope, or (b) regulation is not needed to protect shippers from the abuse of market power.

In this case, an exemption from the prior approval requirements of 49 U.S.C. 11323–24 is consistent with the standards of 49 U.S.C. 10502. Detailed scrutiny of the proposed transaction through an application for review and approval under 49 U.S.C. 11323–24 is not necessary here to carry out the RTP. Consolidating ownership of the Line in JPB will ensure that JPB will be able to further govern the Line as consistent with the agreements reached when JPB purchased the Line from SP. The Transaction will not have any operational impacts on passenger or common carrier service, as SamTrans will remain the managing agency overseeing the operation of passenger rail service, and no freight or commuter rail common carrier interests will be affected by the transfer of SamTrans' ownership interest to JPB. An exemption would promote the RTP by:

minimizing the need for federal regulatory control over the transaction (49 U.S.C. 10101(2)), ensuring the development and continuation of a sound rail transportation system that would continue to meet the needs of the public (49 U.S.C. 10101(4)), fostering sound economic conditions in transportation (49 U.S.C. 10101(5)), encouraging efficient management (49 U.S.C. 10101(9)), and providing for the expeditious resolution of this proceeding (49 U.S.C. 10101(15)). Other aspects of the RTP would not be adversely affected.

Regulation of this transaction is not needed to protect shippers from an abuse of market power.<sup>2</sup> This acquisition involves no more than transferring the ownership interests of one current tenant-in-common to the other, thus consolidating ownership of the Line in the latter. According to JPB, no change in operations will occur, no interests of the freight railroads' operation on the corridor will be impacted, and no shippers will be adversely affected by the Transaction. Nothing in the record indicates that the Transaction would result in any shipper losing access to rail service or foreclose any transportation options currently available to shippers. Moreover, no shipper (or any other entity) has objected to the Transaction.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a carrier of its statutory obligation to protect the interests of employees. Accordingly, as a condition to granting this exemption, the Board will impose the standard employee protective conditions in *New York Dock Railway—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60, *aff'd New York Dock Railway v. United States*, 609 F.2d 83 (2d Cir. 1979).

The control transaction is exempt from environmental reporting requirements under 49 CFR 1105.6(c)(1)(i) because it will not result in any significant change in carrier operations. Similarly, the transaction is exempt from the historic reporting requirements under 49 CFR 1105.8(b)(1), as JPB states it has no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older.

The exemption will be effective June 19, 2024, and petitions to stay will be due by May 30, 2024. Petitions for reconsideration or petitions to reopen will be due by June 10, 2024.

*It is ordered:*

<sup>2</sup> Given this finding, the Board need not determine whether the transaction is limited in scope. *See* 49 U.S.C. 10502(a).

1. Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323–25 the control transaction described above, subject to the employee protective conditions in *New York Dock Railway—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60, *aff'd New York Dock Railway v. United States*, 609 F.2d 83 (2d Cir. 1979).

2. Notice of the exemption will be published in the **Federal Register**.

3. The exemption will become effective on June 19, 2024. Petitions for stay must be filed by May 30, 2024. Petitions for reconsideration or petitions to reopen must be filed by June 10, 2024.

Decided: May 18, 2024.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

**Eden Besera,**

*Clearance Clerk.*

[FR Doc. 2024–11325 Filed 5–22–24; 8:45 am]

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## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36775]

### CG Railway, LLC—Operation Exemption—Rail Ferry Service

CG Railway, LLC (CGR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 for after-the-fact authority to operate a rail ferry service between the Port of Mobile, Ala., and the U.S. maritime boundary line in the Gulf of Mexico.<sup>1</sup>

According to the verified notice, CGR provides a rail ferry service between the Port of Mobile and the Port of Coatzacoalcos, Veracruz in Mexico. CGR states that it began its rail ferry service in 2001 out of the Port of Mobile after receiving Board authorization for the lease and operation of certain tracks from the Terminal Railway Alabama State Docks (TASD) in Mobile, Ala.,<sup>2</sup> and that CGR's rail operations in Mobile are currently conducted pursuant to an exemption received in 2007 to lease from TASD and operate 0.583 miles of rail line.<sup>3</sup> CGR states, however, that

<sup>1</sup> By decision served April 4, 2024, in another proceeding, the Board directed CGR to indicate whether it had ever received Board authority to operate the rail car ferry service and, if not, to seek after-the-fact authority or explain why it believed authorization is not needed. *GMéxico Transportes, S.A.B. de C.V.—Acquis. of Control Exemption—CG Ry.*, FD 36701, slip op. at 5 (STB served Apr. 4, 2024).

<sup>2</sup> *See Cent. Gulf Ry.—Lease & Operation Exemption—Terminal Ry. Ala. State Docks*, FD 33891 (STB served July 6, 2000).

<sup>3</sup> *See CG Ry.—Lease & Operation Exemption—Terminal Ry. Ala. State Docks*, FD 35009 (STB served Apr. 12, 2007). As described in the verified

while it sought and obtained Board authorization for its operations of track within the Port of Mobile, its prior notices of exemption did not request, and thus GCR did not receive, authorization for operation of the rail ferry service. CGR represents that it is the common carrier responsible for the operation of the rail ferry service,<sup>4</sup> and now seeks after-the-fact authorization to operate the service between the Port of Mobile and the U.S. maritime boundary line in the Gulf of Mexico.<sup>5</sup>

GCR certifies that the operation of the rail ferry service does not involve any interchange commitments. CGR further certifies that its projected revenues as a result of the rail ferry service will not result in the creation of a Class I or Class II rail carrier. However, CGR states that its annual revenues exceed, and are expected to continue to exceed, \$5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions for those employees, and certify to the Board that it has done so. According to the verified notice, CGR posted the required 60-day notice at the workplaces of CGR employees and

certified to the Board that it had done so on May 7, 2024.<sup>6</sup>

The earliest this exemption may become effective is July 6, 2024 (60 days after the certification under 49 CFR 1150.42(e) was filed).<sup>7</sup>

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 June 28, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36775, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on CGR's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

According to CGR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c)(1)(i) and from historic reporting requirements under 49 CFR 1105.8(b)(1).

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

Decided: May 20, 2024.

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

**Eden Besera,**  
Clearance Clerk.

[FR Doc. 2024-11343 Filed 5-22-24; 8:45 am]

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**SURFACE TRANSPORTATION BOARD**

[Docket No. EP 748]

**Indexing the Annual Operating Revenues of Railroads**

The Surface Transportation Board (the Board) is publishing the annual inflation-adjusted index and deflator factors for 2023. The deflator factors are used by the railroads to adjust their gross annual operating revenues for classification purposes. This indexing methodology ensures that railroads are classified based on real business expansion and not on the effects of inflation. Classification is important because it determines the extent to which individual railroads must comply with the Board's reporting requirements.

The Board's deflator factors are based on the annual average of the Producer Price Index (PPI) industry data for line-haul railroads developed by the Bureau of Labor Statistics (BLS).<sup>1</sup>

The Board's deflator factor is used to deflate revenues for comparison with established revenue thresholds.

**RAILROAD REVENUE THRESHOLDS<sup>2</sup>**

Year	Factor	Class I	Class II
2019 <sup>3</sup>	0.4952	504,803,294	40,384,263
2020 <sup>4</sup>	1.0000	900,000,000	40,400,000
2021	0.9535	943,898,958	42,370,575
2022	0.8721	1,032,002,719	46,325,455
2023	0.8541	1,053,709,560	47,299,851

**DATES:** The inflation-adjusted indexes and deflator factors are effective January 1, 2023.

notice that CGR filed in Docket No. FD 35009, this line is different from the line that was the subject of the notice in Docket No. FD 33891.

<sup>4</sup> The Verified Notice explains that CGR holds itself out as the common carrier for the rail service and is responsible for all commercial activities in support of the rail ferry service. CGR also provides details concerning its arrangements for chartering and operating the rail ferry vessels.

<sup>5</sup> CGR is not seeking retroactive effectiveness for the exemption.

<sup>6</sup> CGR states that none of CGR's employees are represented by a union.

<sup>7</sup> CGR believes that a partial waiver of the 60-day notice period would be appropriate, where after-the-fact authority is being sought and no operational changes will result, but CGR states that it is not seeking such a waiver and that it

**FOR FURTHER INFORMATION CONTACT:** Pedro Ramirez at (202) 245-0333. If you require an accommodation under the

understands that the exemption would not be effective until 60 days after its certification was filed.

<sup>1</sup> Starting in this year's decision, the reference to the series for the Railroad Freight Price Index has been changed to match BLS's terminology (PPI industry data for line-haul railroads) for ease of identifying the information.

<sup>2</sup> In *Montana Rail Link, Inc., & Wisconsin Central Ltd., Joint Petition for Rulemaking with Respect to 49 CFR part 1201*, 8 I.C.C.2d 625 (1992), the Board's predecessor, the Interstate Commerce Commission, raised the revenue classification level for Class I railroads from \$50 million (1978 dollars) to \$250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also raised from \$10 million (1978 dollars) to \$20 million (1991 dollars). In *Montana*

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

*Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers*, EP 763 (STB served Apr. 5, 2021), the revenue classification level for Class I railroads was raised from \$250 million (1991 dollars) to \$900 million (2019 dollars), and the Class II threshold was converted and rounded from \$20 million (1991 dollars) to \$40.4 million (2019 dollars), effective for the reporting year beginning January 1, 2020.

<sup>3</sup> The 2019 values reflect those in *Indexing the Annual Operating Revenues of Railroads*, EP 748 (STB served June 10, 2020).

<sup>4</sup> The 2020 and subsequent values are based on the thresholds established in Docket No. EP 763, and the deflator factor is referenced to the new base year of 2019. As the PPI industry data for line-haul railroads remained the same from 2019 to 2020, the annual deflator factor for 2020 was 1.0000.