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SERVICE DATE – JULY 29, 2022

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36631]

Livonia, Avon & Lakeville Railroad Corporation—Acquisition of Control Exemption—  
Ontario Midland Railroad Corporation

Livonia, Avon & Lakeville Railroad Corporation (LAL), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to acquire control of the Ontario Midland Railroad Corporation (OMID), a Class III rail carrier.

The verified notice states that LAL will acquire control of OMID by purchasing 55% of OMID stock pursuant to a Stock Acquisition Agreement. An agreement is expected to be executed on or about August 13, 2022. The verified notice states that LAL currently controls two Class III rail carriers, Western New York & Pennsylvania Railroad, LLC (WNYP) and B&H Rail Corporation (B&H)<sup>1</sup> (collectively, LAL Class III Affiliates).

LAL represents that: (1) the rail lines on which OMID will operate will not connect with the rail lines operated by LAL or the LAL Class III Affiliates; (2) the transaction is not part of a series of anticipated transactions that would result in a connection between lines operated or to be operated by OMID, LAL, or the LAL Class III Affiliates; and (3) the transaction does not involve a Class I rail carrier. The proposed

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<sup>1</sup> The verified notice states that LAL, B&H, and OMID operate in New York, and WNYP operates in New York and Pennsylvania.

transaction is therefore exempt from the prior approval requirements of 49 U.S.C. § 11323 pursuant to 49 C.F.R. § 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 transaction may be consummated on or after August 12, 2022, 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 August 5, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36631, 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, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on LAL's representative, Kevin M. Sheys, Hogan Lovells US LLP, 555 13th Street, N.W., Washington, DC 20004.

According to LAL, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b).

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

Decided: July 25, 2022.

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