

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36878

FORTRESS INVESTMENT GROUP LLC—CONTROL EXEMPTION—WHEELING &
LAKE ERIE RAILWAY COMPANY AND AKRON BARBERTON CLUSTER RAILWAY
COMPANY

Digest:¹ This decision permits Fortress Investment Group LLC, for the benefit of its affiliates, to acquire control of The Wheeling Corporation and its wholly owned rail carrier subsidiaries, Wheeling & Lake Erie Railway Company and Akron Barberton Cluster Railway Company.

Decided: November 26, 2025

On August 28, 2025, Fortress Investment Group LLC (Fortress), a noncarrier, filed a petition under 49 U.S.C. 10502, seeking an exemption from the prior approval requirements of 49 U.S.C. 11323 for the benefit of FTAI Infrastructure, Inc. (FTAI Infrastructure), Percy Acquisition LLC (PALLC), FIP RR Holding Company LLC (FIP HoldCo), and FIP RR Holdings LLC (FIPRR), which are all managed by an affiliate of Fortress, to acquire control of The Wheeling Corporation, a noncarrier, and (indirectly) its wholly owned subsidiaries, Wheeling & Lake Erie Railway Company (W&LE), a Class II rail carrier, and Akron Barberton Cluster Railway Company (ABC), a Class III rail carrier. The Board will grant Fortress's petition for exemption, subject to standard labor protective conditions.

BACKGROUND

Fortress explains that its affiliate manages FTAI Infrastructure. (Pet. 4.) FTAI Infrastructure owns 99% of PALLC, which in turn controls Transtar, LLC (Transtar). (Pet. 4.)² Transtar currently owns and directly controls six non-connecting Class III rail carriers. (*Id.* at 2, 8.)³ W&LE operates over approximately 982 miles of track in Ohio, Pennsylvania, West

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² PALLC also owns 100% of FIP HoldCo, and that entity owns 100% of FIPRR. (*Id.*)

³ Those carriers are: Union Railroad Company, LLC (URR); Gary Railway Company, LLC; Delray Connecting Railroad Company; Texas & Northern Railway Company, LLC; The Lake Terminal Railroad Company, LLC; and East Ohio Valley Railway, LLC. (*Id.* at 4.)

Virginia, and Maryland. (Id. at 7.) ABC operates over approximately 84 miles of track in the vicinity of Akron, Ohio. (Id. at 7-8.)⁴

Pursuant to a Stock Purchase Agreement dated August 6, 2025, FIPRR acquired, on August 25, 2025, 100% of the equity interests in The Wheeling Corporation, which holds 100% of the equity interests in W&LE and ABC. Immediately upon closing, the shares of The Wheeling Corporation were deposited into an independent voting trust pursuant to 49 CFR part 1013 pending the Board's consideration of the petition for exemption. (Pet. 7.)⁵

If the transaction is approved and the voting trust is dissolved, Fortress may be deemed to control (in addition to Transtar's six existing rail carriers) W&LE and ABC upon their becoming indirect subsidiaries of FTAI Infrastructure and PALLC. (Pet. 7.) FIPRR will directly control, and FIP Holdco, PALLC, and FTAI Infrastructure will indirectly control, The Wheeling Corporation, W&LE, and ABC. (Id.)

In support of its exemption request, Fortress asserts that granting an exemption will further several goals of the Rail Transportation Policy (RTP) under 49 U.S.C. 10101. (Pet. 14-15.) Fortress explains that, among other things, the transaction will enable W&LE and ABC to benefit from the financial strength of FTAI Infrastructure and PALLC. (Id. at 15.) Fortress also asserts that the transaction will not lead to higher rates or reduced service and that W&LE and ABC will continue to provide freight rail service over their respective lines. (Id.)

Although W&LE and URR share a common customer in the vicinity of Mifflin Junction, Fortress claims that they do not compete for the same traffic from that customer and that the customer supports the transaction. (Id. at 15-16.) That customer, TMS International, LLC (TMS), filed a statement in support of the transaction on September 8, 2025.

DISCUSSION AND CONCLUSIONS

The acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers requires prior approval from the Board under 49 U.S.C. 11323(a)(5). 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) the regulation is not necessary to carry out the RTP under 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not needed to protect shippers from the abuse of market power.

An exemption from the prior approval requirements of 49 U.S.C. 11323-25 in this case 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 sections 49 U.S.C. 11323-25 is not

⁴ One of the Transtar railroads, URR, connects with W&LE at Mifflin Junction, Pa., and Clairton, Pa. For that reason, Fortress sought Board authority via petition for exemption rather than the class exemption at 49 CFR 1180.2(d)(2), which applies only to nonconnecting carriers. (Id. at 6.)

⁵ Fortress submitted the voting trust agreement to the Board on August 25, 2025.

necessary to carry out the RTP. Permitting Fortress's acquisition without having to file an application would promote the RTP by minimizing the need for federal regulatory control over the proposed transaction, 49 U.S.C. 10101(2); reducing regulatory barriers to entry into and exit from the industry, 49 U.S.C. 10101(7); and providing for the expeditious resolution of this proceeding, 49 U.S.C. 10101(15). The transaction would also enhance W&LE's and ABC's access to capital and hence facilitate future strategic investment decisions and growth opportunities. (Pet. 15.) As a result, granting an exemption would promote a safe and efficient rail transportation system, 49 U.S.C. 10101(3); ensure the continuation of a sound rail transportation system, 49 U.S.C. 10101(4); and foster sound economic conditions in transportation, 49 U.S.C. 10101(5). Lastly, as discussed below, the Board finds that there would be no significant impacts on competition as a result of the transaction. Accordingly, other aspects of the RTP would not be adversely affected.

Regulation of the proposed transaction is not necessary to protect shippers from an abuse of market power.⁶ Although URR connects with W&LE and they would come under common control through the transaction, the record here does not suggest any reason for concern about reduced competition. Fortress explains that the common shipper, TMS, would not experience an actual reduction because W&LE and URR do not compete for the same TMS traffic. (Pet. 17.) W&LE moves scrap metal to facilities in Mingo Junction, Ohio, and Cleveland, Ohio via entirely W&LE local movements, while URR handles scrap metal heading east to a steel works in Braddock, Pa., an entirely local URR move, as well as for interchange to carriers other than W&LE. (*Id.* at 16-17.) Given their respective route structures, neither W&LE nor URR is capable of handling the TMS local movements currently served by the other carrier. (*Id.* at 17.) TMS also supports the transaction and asks the Board to "promptly approve" it so that the shipper "can take full advantage of benefits that will result." (See TMS Letter 1, Sept. 8, 2025.) There were no filings in opposition to the transaction. Based on the record, the Board finds that the transaction meets the requirements for an exemption under 49 U.S.C. 10502.

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. Because the transaction involves one Class II and one or more Class III rail carriers, the exemption will be made subject to the labor protection requirements of 49 U.S.C. 11326(b) and Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad, 2 S.T.B. 218 (1997).

The acquisition of control is exempt from environmental reporting requirements under 49 CFR 1105.6(c)(1) because it will not result in significant changes in carrier operations. Similarly, under 49 CFR 1105.8(b)(3), no historic reporting is required because the proposed transaction will not substantially change the level of operations or maintenance of railroad properties.

It is ordered:

⁶ 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 the above transaction from the prior approval requirements of 49 U.S.C. 11323-25, subject to the employee protective conditions in Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad, 2 S.T.B. 218 (1997).

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

3. The exemption will become effective on December 26, 2025. Petitions for stay must be filed by December 5, 2025. Petitions to reopen must be filed by December 16, 2025.

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