

GENESEE & WYOMING INC
Form DEF 14A
April 10, 2017

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
SCHEDULE 14A
(RULE 14a-101)
INFORMATION REQUIRED IN PROXY STATEMENT
SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934

(Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material under §240.14a-12

GENESEE & WYOMING INC.

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

Title of each class of securities to which transaction applies:

(1)

Aggregate number of securities to which transaction applies:

(2)

Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(3)

Proposed maximum aggregate value of transaction:

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(5) Total fee paid:

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

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(1)

Form, Schedule or Registration Statement No.:

(2)

Filing Party:

(3)

Date Filed:

(4)

GENESEE & WYOMING INC.

April 10, 2017

Dear Fellow Stockholder:

On behalf of the Board of Directors, I cordially invite you to attend the Annual Meeting of Stockholders of Genesee & Wyoming Inc. to be held at 10:00 a.m., Eastern Daylight Time, on Wednesday, May 24, 2017 at the Hyatt Regency Greenwich, 1800 East Putnam Avenue, Old Greenwich, Connecticut 06870. The notice and proxy statement for the annual meeting are attached to this letter and describe the business to be conducted at the annual meeting.

At this year's annual meeting, we will vote for the election of four directors, seek the approval, in a non-binding, advisory vote, of the compensation paid to our Executive Officers, determine, in a non-binding, advisory vote, the frequency of future advisory votes on the compensation paid to our Executive Officers, and vote for the ratification of the selection of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for our fiscal year ending December 31, 2017. There will also be a report on the Company's business, and stockholders will have an opportunity to ask questions.

In accordance with the rules of the Securities and Exchange Commission, we sent a Notice of Internet Availability of Proxy Materials on or about April 10, 2017 to our stockholders of record as of the close of business on March 27, 2017. We also provided access to our proxy materials over the Internet beginning on that date. If you received a Notice of Internet Availability of Proxy Materials by mail and did not receive, but would like to receive, a printed copy of our proxy materials, you should follow the instructions for requesting such materials included on page 5 of this proxy statement or in the Notice of Internet Availability of Proxy Materials.

To have your vote recorded, you should vote over the Internet or by telephone. In addition, if you have requested or received a paper copy of the proxy materials, you may vote by signing, dating and returning the proxy card sent to you in the envelope accompanying the proxy materials sent to you. We encourage you to vote by any of these methods even if you currently plan to attend the annual meeting. If you decide to attend, you can still vote your shares in person if you wish.

On behalf of the Board of Directors, I thank you for your cooperation and look forward to seeing you on May 24, 2017.

Very truly yours,

Allison M. Fergus
General Counsel and Secretary

**NOTICE OF 2017 ANNUAL MEETING OF
STOCKHOLDERS OF GENESEE & WYOMING INC.**

DATE AND TIME: Wednesday, May 24, 2017 at 10:00 a.m., Eastern Daylight Time

PLACE: Hyatt Regency Greenwich 1800 East Putnam Avenue Old Greenwich, Connecticut 06870

- ITEMS OF BUSINESS:**
- 1) To elect the four directors listed in the accompanying proxy statement (the “Proxy Statement”);
 - 2) To approve, in a non-binding, advisory vote, the compensation paid to our named executive officers as described in the Proxy Statement;
 - 3) To determine, in a non-binding, advisory vote, the frequency of future advisory votes on the compensation paid to our named executive officers;
 - 4) To ratify the selection of PricewaterhouseCoopers LLP as our independent registered public accounting firm for our fiscal year ending December 31, 2017; and
 - 5) To transact such other business as may properly come before our annual meeting or any adjournments or postponements of the meeting.

WHO CAN VOTE: You are entitled to vote if you were a stockholder of record at the close of business on Monday, March 27, 2017 (the “Record Date”).

INTERNET AVAILABILITY: A Notice of Internet Availability of Proxy Materials (the “Notice”) was sent on or about April 10, 2017 to our stockholders of record. We also provided Internet access to our proxy materials beginning on that date. If you received the Notice by mail and did not receive, but would like to receive, a printed copy of our proxy materials, you should follow the instructions for requesting such materials included on page 5 of this proxy statement or in the Notice.

VOTING: We urge you to participate in the annual meeting, either by attending and voting in person or by voting through other acceptable means as promptly as possible. You may vote by telephone, through the Internet or by mailing your completed and signed proxy card (or voting instruction form, if you hold your shares through a broker, bank or other nominee). Your vote is important and we urge you to vote.

2016 ANNUAL REPORT: A copy of our Annual Report on Form 10-K for the fiscal year ended December 31, 2016 accompanies this Proxy Statement.

DISTRIBUTION: This Notice of Annual Meeting of Stockholders and Proxy Statement, along with our annual report to stockholders, which includes our Form 10-K for our fiscal year ended December 31,

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2016, and our related audited financial statements, are first being distributed or made available to stockholders, as the case may be, on or about April 10, 2017.

BY ORDER OF THE BOARD OF DIRECTORS

Allison M. Fergus
General Counsel and Secretary

April 10, 2017

Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting of Stockholders to be Held on May 24, 2017. The following proxy materials are available for you to view online at www.proxyvote.com: (1) this proxy statement (including all attachments, if any); (2) our annual report for the year ended December 31, 2016 (which is not deemed to be part of the official proxy soliciting materials); and (3) any amendments to the foregoing materials that are required to be furnished to stockholders. In addition, if you have not received a copy of our proxy materials and would like one, you may download an electronic copy of our proxy materials or request a paper copy at www.proxyvote.com. You will also have the opportunity to request paper or email copies of our proxy materials for all future meetings.

GENESEE & WYOMING INC.

Principal Executive Offices:

20 West Avenue

Darien, Connecticut 06820

PROXY STATEMENT

Our Board of Directors, or the Board, is soliciting proxies to be voted at our annual meeting of stockholders to be held at the Hyatt Regency Greenwich, 1800 East Putnam Avenue, Old Greenwich, Connecticut 06870, on May 24, 2017, at 10:00 a.m., Eastern Daylight Time, or at any adjournments or postponements of the annual meeting.

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QUESTIONS AND ANSWERS

ABOUT THE 2017 ANNUAL MEETING AND VOTING

WHY AM I BEING PROVIDED WITH THESE PROXY MATERIALS?

We have made this proxy statement and our annual report for the fiscal year ended December 31, 2016 (the “Annual Report” and collectively with this proxy statement, the “Proxy Materials”) available to you on the Internet or, upon your request, have delivered printed versions of these materials and the proxy card to you by mail in connection with the solicitation by our Board of Directors (the “Board”) of proxies to be voted at our annual meeting of stockholders. Directors, officers and other Company employees may also solicit proxies by telephone or otherwise. We will bear the cost of this solicitation.

Our Board has fixed the close of business on March 27, 2017 as the record date (“Record Date”) for our annual meeting. Only stockholders as of the Record Date are entitled to notice of and to vote at our annual meeting or at any adjournments or postponements thereof, in person or by proxy. The Proxy Materials are being made available to you because you owned shares of our common stock as of the close of business on the Record Date. This proxy statement describes the matters on which we would like you to vote and provides information on those matters so that you can make an informed voting decision.

WHY DID I RECEIVE A ONE-PAGE NOTICE IN THE MAIL REGARDING THE INTERNET AVAILABILITY OF PROXY MATERIALS INSTEAD OF A FULL SET OF PROXY MATERIALS?

Pursuant to rules adopted by the United States Securities and Exchange Commission (the “SEC”), we have elected to provide stockholders access to our Proxy Materials over the Internet. We believe that this e-proxy process will expedite our stockholders’ receipt of Proxy Materials, reduce the environmental impact of our annual meeting and lower the costs of printing and distributing our Proxy Materials. Accordingly, we expect to send a Notice of Internet Availability of Proxy Materials (the “Notice”) on or about April 10, 2017 to stockholders entitled to vote at the annual meeting. If you receive the Notice by mail, you will not

receive a printed copy of the Proxy Materials unless you specifically request a printed copy.

All stockholders will have the ability to access the Proxy Materials on a website referred to in the Notice, to download printable versions of the Proxy Materials from this website or to request and receive a printed copy of the Proxy Materials from us. Instructions on how to access the Proxy Materials over the Internet or to request a printed copy from us may be found in the Notice. If you receive paper copies of the Proxy Materials, a proxy card will also be enclosed.

WHAT WILL I

BE
VOTING
ON?

• To elect the four directors listed herein (see page 6);
• to approve, in a non-binding, advisory vote, the compensation paid to our named executive officers as described in this proxy statement (see page 60);
• to determine, in a non-binding advisory vote, the frequency of future advisory votes on the compensation paid to our named executive officers (see page 62);
• to ratify the selection of PricewaterhouseCoopers LLP (“PwC”) as our independent registered public accounting firm for our fiscal year ending December 31, 2017 (see page 63); and
• to transact such other business as may properly come before our annual meeting or any adjournments or postponements of the meeting.

HOW
MANY
VOTES
MUST BE
PRESENT
TO HOLD
THE
MEETING?

The holders of a majority of the voting power of the Company’s Class A Common Stock, par value \$0.01 per share (“Class A Common Stock”), and Class B Common

Stock, par value \$0.01 per share (“Class B Common Stock”) issued and outstanding, must be present in person or by proxy to hold our annual meeting.

HOW
MANY
SHARES
ARE
ENTITLED
TO VOTE?

As of the close of business on March 27, 2017, there were 61,511,715 shares of our Class A Common Stock

outstanding and entitled to vote and 758,138 shares of our Class B Common Stock outstanding and entitled to vote.

HOW
MANY
VOTES
DO I
HAVE?

If you are a holder of our Class A Common Stock, then you are entitled to one vote per share of Class A Common Stock that you held as of the close of business on March 27, 2017. If you are a holder of our Class B Common Stock, then you are entitled to ten votes per share of Class B Common Stock

that you held as of the close of business on March 27, 2017. All matters expected to be voted on at our annual meeting will be voted on by the holders of our Class A Common Stock and Class B Common Stock, voting together as a single class.

HOW DOES
THE BOARD
RECOMMEND
THAT I VOTE?

Our Board recommends that you vote your shares:

- “FOR” each of the nominees to the Board set forth in this proxy statement;
- “FOR” the approval, in a non-binding, advisory vote, of the compensation paid to our named executive officers as described in this proxy statement;
- “FOR” one year with respect to how frequently an advisory stockholder vote to approve the compensation of our named executive officers should occur; and
- “FOR” the ratification of the selection of PwC as our independent registered public accounting firm for 2017.

If you are a registered holder and you sign and submit your proxy card without indicating your voting instructions, your shares will be voted in accordance with the Board’s recommendations.

HOW DO I
VOTE MY
SHARES
WITHOUT
ATTENDING
THE
ANNUAL
MEETING
AND WHAT
IS THE
VOTING
DEADLINE?

By Internet: You may submit your proxy by going to www.proxyvote.com and by following the instructions on how to complete an electronic proxy card. You will need the 16-digit Control Number included on your Notice or your proxy card in order to vote by Internet.

By Telephone: You may submit your proxy by dialing (800) 690-6903. You will need the 16-digit Control Number included on your Notice or your proxy card in order to vote by telephone.

By Mail: If you have not already received a proxy card, you may request a hard copy of your Proxy Materials from us by following the instructions on your Notice. When you receive the proxy card, mark your selection on the proxy card, date and sign your name exactly as it appears on your proxy card. If you are signing in a representative capacity

(for example, as guardian, executor, trustee, custodian, attorney or officer of a corporation), indicate your name and title or capacity. Mail the proxy card in the postage-paid envelope that will be provided to you.

If you hold your shares in “street name,” you may vote by submitting voting instructions to your bank, broker or other nominee. In most instances, you will be able to do this over the Internet, by telephone or by mail, as indicated above. Please refer to information from your bank, broker or other nominee on how to submit voting instructions. Internet and telephone voting will close at 11:59 p.m. (Eastern Daylight Time) on May 23, 2017 for the voting of shares held by stockholders of record or held in “street name” and will close at 11:59 p.m. (Eastern Daylight Time) on May 22, 2017 for the voting of shares held by participants in our employee stock purchase plan. Mailed proxy cards representing shares held by stockholders of record or held in “street name” must be received no later than May 23, 2017. Mailed proxy cards representing shares held by participants in our employee stock purchase plan must be received no later than May 22, 2017.

WHAT IS THE
DIFFERENCE
BETWEEN
HOLDING
SHARES AS A
STOCKHOLDER
OF RECORD
AND IN “STREET
NAME” AS A
BENEFICIAL
OWNER?

If your shares are registered directly in your name with our transfer agent, Computershare, you are considered, with respect to those shares, the “stockholder of record.” We have sent the Notice or, if requested, the Proxy Materials directly to you.

If your shares are held in a stock brokerage account or by a bank or other holder of record, you are considered the

“beneficial owner” of shares held in “street name.” The Notice, or Proxy Materials, if you elected to receive a hard copy, have been forwarded to you by your broker, bank or other holder of record who is considered, with respect to those shares, the stockholder of record. As the beneficial owner, you have the right to direct your broker, bank or other holder of record on how to vote your shares by following their instructions for voting.

HOW DO I
VOTE MY
SHARES IN
PERSON
AT THE
ANNUAL
MEETING?

First, as described below, you must satisfy the requirements to attend the annual meeting. Then, if you are a stockholder of record, you must bring proof of identification along with your Notice or proof of ownership. If you hold shares in “street name,” you may vote them at the annual meeting only if you obtain a signed proxy from the record holder (the broker or other nominee) giving you the right to vote the

shares. Shares held through our employee stock purchase plan cannot be voted in person at the annual meeting. Even if you plan to attend the annual meeting, we encourage you to vote in advance by Internet or telephone or by proxy card, if you elected to receive a hard copy of your Proxy Materials, so that your vote will be counted, even if you later decide not to attend the annual meeting.

WHAT DO I
NEED TO
DO IF I
WANT TO
ATTEND
THE
ANNUAL
MEETING?

You do not need to make a reservation to attend the annual meeting. However, you will need to demonstrate that you were a stockholder on the Record Date to be admitted to the meeting. If your shares are held in the name of your bank, broker or through our employee stock purchase plan or other holder of record, you will need to bring evidence of your beneficial stock ownership. If you do not have proof that you owned our stock as of the Record Date, you may not be admitted to the meeting. Attendance at the annual meeting is limited to our stockholders of record,

participants of our employee stock purchase plan and beneficial owners, in each case as of the Record Date, members of their immediate families or their named representatives, as well as other invitees of the Company. We reserve the right to limit the number of representatives and immediate family members who may attend the meeting. Directions to the meeting are set forth on our website at www.gwrr.com/annualmeeting.

CAN I
CHANGE
OR
REVOKE
MY
VOTE?

Yes. If you are a stockholder of record or a participant in our employee stock purchase plan, you may revoke your proxy or change your vote at any time before your proxy is voted. The last vote cast is what counts. To revoke your proxy or change a vote previously submitted over the Internet, by telephone or by mail, you may simply vote again at a later time using any of the procedures, in which case your later submitted vote

will be recorded and your earlier vote revoked. If your shares are held in “street name,” please refer to the information forwarded to you by your bank, broker or other holder of record for procedures on revoking or changing your proxy vote. Please keep in mind the deadlines for your vote to count which are presented on page 2.

**HOW MANY
VOTES ARE
REQUIRED
FOR THE
PROPOSALS
TO PASS?**

Directors are elected by a plurality vote, which means that the four director nominees with the greatest number of affirmative votes cast, even if less than a majority, will be elected.

The non-binding, advisory votes on the compensation paid to our named executive officers, the frequency of future non-binding, advisory votes on the compensation paid to our named executive officers, as well as the proposal to ratify the selection of PwC as the Company’s independent registered

public accounting firm for the Company’s fiscal year ending December 31, 2017 each requires the affirmative vote of a majority of the voting power of the shares of our common stock present in person or represented by proxy and entitled to vote on the matter.

It is important to note that all three of these proposals are non-binding and advisory. Therefore, the Company and/or the Board may determine to act in a manner inconsistent with the outcome of such proposals.

**HOW ARE
VOTES
COUNTED?**

With respect to the election of directors, you may vote “FOR” all nominees for the Board, or you may “WITHHOLD” authority to vote for one or more nominees. A “WITHHOLD” vote will have the same effect as an abstention. Neither a “WITHHOLD” vote nor a broker non-vote will affect the outcome of the election because directors are elected by plurality voting, but each will be counted for purposes of determining if a quorum is present at the annual meeting.

With respect to the non-binding, advisory vote on the compensation paid to our named executive officers, you may vote “FOR,” “AGAINST,” or “ABSTAIN.” With respect to the frequency of future non-binding, advisory votes on the compensation paid to our named executive officers, you may vote “1 YEAR,” “2 YEARS,” “3 YEARS,” or “ABSTAIN.” For both proposals, abstentions will count as an “AGAINST” vote and will count as shares present for determining if a quorum is present at the annual meeting.

Broker non-votes will have no effect in determining whether the proposals are approved because the shares subject to the “broker non-vote” will not be deemed entitled to vote on this matter, but will be counted for purposes of determining if a quorum is present at the annual meeting. With respect to the ratification of the selection of PwC as the Company’s independent registered public accounting firm for the Company’s fiscal year ending December 31, 2017, you may vote “FOR,” “AGAINST” or “ABSTAIN.” Abstentions

will count as an “AGAINST” vote and will count as shares present for determining if a quorum is present at the annual meeting. There are no broker non-votes for auditor ratification because brokers have discretion to vote on the ratification of the selection of the Company’s independent registered public accounting firm.

WHAT IF I
DO NOT
SPECIFY A
CHOICE FOR
A MATTER
WHEN
RETURNING
A PROXY?

Stockholders should specify their choice for each matter described in the Notice, or the proxy card, as the case may be. If no specific instructions are given, proxies which are signed and returned will be voted FOR the election of each of the director nominees listed herein, FOR the advisory vote on compensation paid to our named executive officers, FOR one year with respect to how frequently an advisory stockholder vote to approve the

compensation of our named executive officers should occur and FOR the proposal to ratify the appointment of PwC as our independent registered public accounting firm for our fiscal year ending December 31, 2017, and in accordance with the discretion of the holders of the proxy with respect to all other matters that properly come before our annual meeting or any adjournment or postponement thereof.

WHAT IF I
DON’T VOTE
MY SHARES
BY PROXY
AND DON’T
ATTEND
THE
COMPANY’S
ANNUAL
MEETING?

If you are a “stockholder of record” (that is, your shares are registered in your own name with our transfer agent) or a participant in our employee stock purchase plan and you do not vote your shares, your shares will not be voted. If you are a “beneficial owner” of shares held in “street name,” and you do not give your bank, broker or other holder of record specific voting instructions for your shares, under the New York Stock Exchange (“NYSE”) rules, your bank, broker or other holder of record will be unable to exercise discretionary authority for you with regard to the election of director nominees listed herein and with respect to the non-binding

advisory vote on the compensation paid to our named executive officers and the frequency of future advisory votes on the compensation paid to our named executive officers. However, if you are a “beneficial owner” of shares held in “street name,” and you do not give your bank, broker or other holder of record specific voting instructions for your shares, your bank, broker or other holder of record will be able to exercise discretionary authority for you with regard to the ratification of the selection of PwC as the Company’s independent registered public accounting firm for the Company’s fiscal year ending December 31, 2017.