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SERVICE DATE – DECEMBER 6, 2019

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36364]

Decatur & Eastern Illinois Railroad, L.L.C.—Acquisition and Change of Operator
Exemption—NRG, Inc., and Eastern Illinois Railroad Company

Decatur & Eastern Illinois Railroad, L.L.C. (DEIR), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 for it to (1) acquire from NRG, Inc. (NRG), an approximately 53-mile line of railroad extending between milepost 286.0 near Metcalf, Ill., and approximately milepost 338.95 (east of Oak Avenue) in Neoga, Ill., (the Line) and (2) replace NRG's corporate subsidiary, Eastern Illinois Railroad Company (EIRC), as operator on the Line.¹

The verified notice states that DEIR, NRG, and EIRC are in the process of completing terms of an Agreement for Sale and Purchase of Business Assets (the Agreement). Pursuant to the Agreement, ownership of the Line will transfer from NRG to DEIR, and DEIR will replace EIRC as the operator on the Line. DEIR states that EIRC, as a party to the Agreement, has consented to the proposed change in operators.

¹ According to the verified notice, NRG is a noncarrier that acquired the assets of the Line in 1988 after the Line was abandoned by Norfolk and Western Railway Company. See E. Ill. R.R.—Operation Exemption—Line of R.R. of NRG, Inc., in Edgar, Coles, Cumberland, & Douglas Ctys., Ill., FD 31860 (ICC served June 26, 1991).

DEIR certifies that the transaction does not include an interchange commitment.²

DEIR further certifies that its projected annual revenues resulting from the transaction will not result in its becoming a Class I or Class II rail carrier. DEIR states, however, that its annual operating revenues will exceed \$5 million. Accordingly, in compliance with 49 C.F.R. § 1150.42(e), DEIR submitted a letter on November 1, 2019, certifying that it posted the required 60-day labor notice of this transaction at the workplace of EIRC employees on the Line.³

Under 49 C.F.R. § 1150.42(b), a change in operator requires that notice be given to shippers. DEIR states that notice of the proposed transaction was provided to shippers on the Line on November 22, 2019.

The earliest this transaction may be consummated is December 31, 2019 (60 days after the certification under 49 C.F.R. § 1150.42(e) was filed). DEIR states that it expects to consummate the transaction on that date.

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

² DEIR states that, although the transaction under which it became a common carrier involved interchange commitments in favor of the seller, see Decatur & E. Ill. R.R.—Acquis. Exemption Containing Interchange Commitment—CSX Transp., Inc., FD 36206 (STB served Aug. 24, 2018), those interchange restrictions will not extend to traffic originating or terminating on the Line.

³ DEIR states that it has been advised that no EIRC employees are represented by a labor union, and, for that reason, that portion of the advance-notice requirement is inapplicable.

effectiveness of the exemption. Petitions for stay must be filed no later than December 24, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36364, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on DEIR's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to DEIR, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b)(1).

Board decisions and notices are available at www.stb.gov.

Decided: December 2, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.