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December 10, 2019

300156

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20006

ENTERED
Office of Proceedings
December 10, 2019
Part of
Public Record

Re: **Docket No. FD 36370**
CCET, LLC d/b/a Cincinnati Eastern Railroad – Lease and
Operation Exemption –Norfolk Southern Railway Company

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is a lease and operation notice of exemption of **CCET, LLC d/b/a Cincinnati Eastern Railroad**, filed pursuant to 49 C.F.R. part 1150, subpart E. Payment of the applicable filing fee of \$2,100.00 has been tendered electronically with this filing via Pay.gov.

If you have any questions regarding this filing, please contact me at either rwimbish@fletcher-sippel.com or (312) 252-1504. Thank you for your assistance on this matter.
Kind regards.

Respectfully submitted,



Robert A. Wimbish
Attorney for CCET, LLC

Enclosure

FILED
December 10, 2019
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
December 10, 2019
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36370

CCET, LLC D/B/A CINCINNATI EASTERN RAILROAD
— LEASE AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY

**VERIFIED NOTICE OF EXEMPTION OF CCET, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

ATTORNEY FOR CCET, LLC

Dated: December 10, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36370

CCET, LLC D/B/A CINCINNATI EASTERN RAILROAD
— LEASE AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY

**VERIFIED NOTICE OF EXEMPTION OF CCET, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Pursuant to 49 C.F.R. part 1150, subpart E, CCET, LLC d/b/a Cincinnati Eastern Railroad (“CCET”), a Class III rail carrier,¹ hereby files this Verified Notice of Exemption (the “Notice”) to renew its lease of, and to continue its provision of railroad common carrier service over, roughly 69.45 route miles of railroad (the “Line”) owned by Norfolk Southern Railway Company (“NSR”).

In accordance with the requirements of 49 C.F.R. § 1150.43, CCET submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.43(a)

The full name and address of the applicant herein is as follows:

CCET, LLC d/b/a Cincinnati Eastern Railroad
43 W Union St
Liberty, IN 47353

¹ See CCET, LLC – Lease and Operation Exemption – Rail Line of Norfolk S. Ry. in Adams Cty., Ohio, Docket No. FD 36079 (STB served Dec. 7, 2016) (covering CCET operations between mileposts CT 62.20 and CT 78.45); CCET, LLC – Lease & Operation Exemption – Rail Line of Norfolk S. Ry. in Clermont, Brown, & Adams Ctys., Ohio, FD 35900 (STB served Feb. 6, 2015) (covering CCET operations between mileposts CT 32.83 and CT 62.20); and CCET, LLC – Lease & Operation Exemption – Rail Line of Norfolk S. Ry., FD 35810 (STB served Apr. 4, 2014) (covering CCET operations between mileposts 9.0 and 32.83) (collectively, the “CCET-Notices”).

Applicant's Representative: 49 C.F.R. § 1150.43(b)

CCET's representative to whom correspondence regarding this transaction should be sent is as follows:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)

CCET and NSR are parties to an agreement under which CCET has acquired a leasehold interest in, and operates, the Line, segments of which were leased to CCET in sequence beginning in 2014, as reflected in the CCET-Notices. (NSR has retained limited overhead trackage rights over the Line, as CCET noted at unnumbered page two of its FD 36079 class exemption notice, filed on November 21, 2016.) Recently, CCET and NSR have agreed to amend substantively the underlying lease agreement, including an extension of the term.

CCET understands that the amended terms of its lease agreement with NSR will not take effect until the effective date of this Notice. CCET also understands that, in keeping with applicable regulations, the Notice will not become effective until January 9, 2020.

Operator of the Property: 49 C.F.R. § 1150.43(d)

CCET will continue to operate over the Line, and provide all rail common carrier service to shippers on the Line.

Background and Summary of the Transaction: 49 C.F.R. § 1150.43(e)

As is reflected in the CCET-Notices, CCET leases and operates contiguous segments of track that, together, constitute the Line as a result of three interrelated lease transactions, the first of which took place in 2014. The Line that CCET seeks to continue to operate (by virtue of amended leasehold terms with NSR) consists of approximately 69.45 route miles of railroad extending from milepost CT 9.0 at Clare, Ohio, at its western end, to milepost CT 78.45 at Mineral Springs, Ohio, at its eastern end.

The name and address of the owner/lessor is as follows:

Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510

Map: 49 C.F.R. § 1150.43(f)

A Map depicting the Line is attached as Exhibit A.

Certificate of Compliance: 49 C.F.R. § 1150.43(g)

The projected revenues of CCET as a consequence of this transaction will not result in CCET becoming a Class I or II rail carrier. Certification to this effect is made in the attached Certification and Verification.

Interchange Commitments: 49 C.F.R. § 1150.43(h)

The subject lease agreement between CCET and NSR does not contain any provision that prohibits or restricts, or that would otherwise limit, interchange of traffic with any third-party carrier.

Advance Notice: 49 C.F.R. § 1150.42(e)

CCET's annual revenues do not exceed, and are not expected to exceed in the foreseeable future, \$5 million. Accordingly, the advance notice requirements of 49 C.F.R. § 1150.32(e) are inapplicable. See Certification and Verification.

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(2), the subject Line lease transaction is exempt from the Board's environmental reporting requirements. The transaction will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), the proposed Line lease transaction is also exempt from the Board's historic preservation reporting requirements. The proposed transaction is for the purpose of continued rail operations. Additional Board approval would be required to discontinue service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.42(a)

A caption summary in appropriate form is attached as Exhibit B to this Notice.

Respectfully submitted,

By: R. A. Wimbish

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

ATTORNEY FOR CCET, LLC

Dated: December 10, 2019

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36370

**CCET, LLC D/B/A CINCINNATI EASTERN RAILROAD
— LEASE AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY**

EXHIBIT A

MAP



SYSTEM MAP

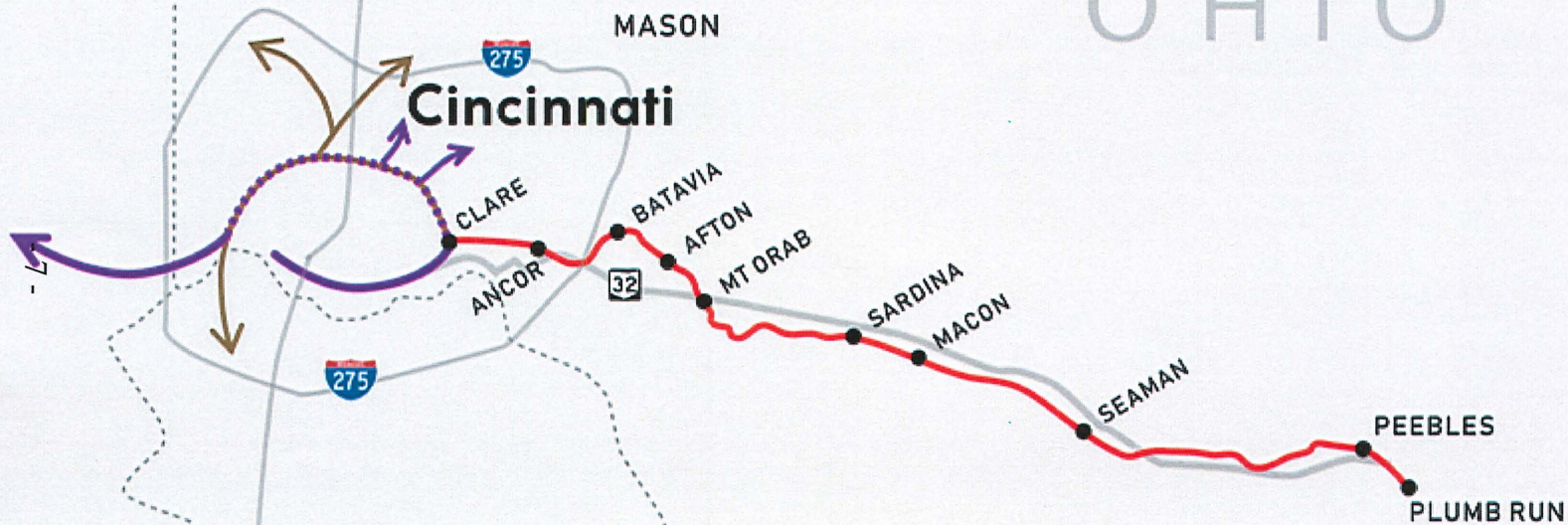
SHOWING THE ROUTE OF THE CINCINNATI EASTERN RAILROAD

MAP KEY

- NORFOLK SOUTHERN
- IORY / CIND
- CINCINNATI EASTERN

OHIO

● CHILLICOTHE



● PORTSMOUTH

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— LEASE AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY**

EXHIBIT B

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36370

**CCET, LLC D/B/A CINCINNATI EASTERN RAILROAD
— LEASE AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY**

CCET, LLC d/b/a Cincinnati Eastern Railroad (“CCET”), a Class III carrier, has filed a notice of exemption (the “Notice”) to continue to operate pursuant to newly-modified leasehold terms approximately 69.45 route miles of railroad owned by Norfolk Southern Railway Company extending from milepost CT 9.0 at Claire, Ohio, at its western end, to milepost CT 78.45 at Mineral Springs, Ohio, at its eastern end.

Comments must be filed with the Board and served on:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

The Notice is filed under 49 C.F.R. § 1150.41. If the 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 transaction.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36370

**CCET, LLC D/B/A CINCINNATI EASTERN RAILROAD
— LEASE AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY**

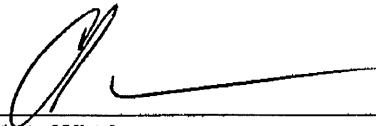
CERTIFICATION AND VERIFICATION

CERTIFICATION AND VERIFICATION

I, Chris Whitley, hereby certify and verify under penalty of perjury as follows:

1. I am the president of CCET, LLC d/b/a Cincinnati Eastern Railroad ("CCET"), and, accordingly, I am qualified and authorized to make the subject Certification and Verification on behalf CCET.
2. The annual rail revenues of CCET are not expected to exceed \$5 million, and CCET's anticipated revenues will not result in it becoming Class I or II rail carrier under the thresholds set forth at 49 C.F.R. § 1201 (11).
3. I have read the foregoing Notice of Exemption, and hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 6th, 2019.



Chris Whitley
CCET, LLC