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SERVICE DATE – DECEMBER 12, 2019

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36275]

Middletown & New Jersey Railroad, L.L.C.—Lease and Operation Exemption

Containing Interchange Commitment—Norfolk Southern Railway Company

Middletown & New Jersey Railroad, L.L.C. (M&NJ), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to continue to lease and operate approximately 36.15 miles of rail line from Norfolk Southern Railway Company (NSR) in New York (collectively, the Lines). The Lines consist of the continued lease of the following rail lines from NSR: (1) the Hudson Secondary located between milepost LX 2.1 and milepost LX 20.6 (18.5 miles in length); (2) the Walden Secondary located between mileposts DJ 5.0 through DJ 10.5 and milepost WI 29.1 through WI 32.9 (9.3 miles in length); (3) the Maybrook Industrial Track located between milepost RT 1.3 and milepost RT 7.5 (6.2 miles in length); (4) the Greycourt Industrial Track located between milepost IL 52.5 and milepost IL 53.4 (1.0 mile in length); and (5) the EL Connection Track located between milepost QK 0.0 and milepost QK 0.8 (0.8 miles in length). The Lines also consist of the continued sublease to M&NJ of NSR's lease operations over the connecting track owned by the New York, Susquehanna & Western Railway (NYS&W) located between milepost JS 63.14 and milepost LX 2.1 (approximately 0.35 miles in length), at Hudson Junction, N.Y. In conjunction with leasing (or subleasing) the Lines to M&NJ, NSR also: (1) granted M&NJ incidental

overhead trackage rights over NSR's rail line located between milepost JS 67.50 and milepost JS 63.14 (4.36 miles in length); and (2) partially assigned to M&NJ all of NSR's rights under the NYS&W Trackage Rights Agreement for NYS&W's continued trackage rights operations over the Hudson Secondary track between Hudson Junction and Warwick, N.Y.

M&NJ entered into a lease agreement with NSR in 2010. See Middletown & N.J. R.R.—Lease & Operation Exemption—Norfolk S. Ry., FD 35412, slip op. at 1-2 (STB served Sept. 16, 2010). The verified notice states that M&NJ recently entered into an amended lease agreement with NSR (Amended Agreement) that, among other things, extended the term of the lease to December 31, 2028.

M&NJ certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier and will not exceed \$5 million. As required under 49 C.F.R. § 1150.43(h)(1), M&NJ has disclosed in its verified notice that the Amended Agreement contains an interchange commitment.¹ M&NJ has provided additional information regarding the interchange commitment as required by 49 C.F.R. § 1150.33(h).

The transaction may be consummated on or after December 26, 2019, the effective date of the exemption (30 days after the verified notice of exemption 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

¹ A copy of the Amended Agreement with the interchange commitment was submitted under seal. See 49 C.F.R. § 1150.33(h)(1).

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 December 19, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36275, 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 M&NJ's representative, Karl Morell, Karl Morell & Associates, 440 1st Street, N.W., Suite 440, Washington, DC 20001.

According to M&NJ, 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).

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

Decided: December 9, 2019.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.