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SERVICE DATE – SEPTEMBER 17, 2020

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36428

R.J. CORMAN RAILROAD COMPANY/LEHIGH LINE, LLC—CHANGE IN OPERATORS,
LEASE AND OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT—
LEHIGH RAILWAY, LLC AND NORFOLK SOUTHERN RAILWAY COMPANY

Docket No. FD 36429

R.J. CORMAN RAILROAD COMPANY/LUZERNE & SUSQUEHANNA LINE, LLC—
CHANGE IN OPERATORS, LEASE AND OPERATION EXEMPTION—LUZERNE AND
SUSQUEHANNA RAILWAY COMPANY AND LUZERNE COUNTY RAIL
CORPORATION

DOCKET NO. FD 36430

R.J. CORMAN RAILROAD COMPANY/OWEGO & HARFORD LINE, INC.—NOTICE OF
MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Docket No. FD 36431¹

R.J. CORMAN RAILROAD COMPANY, LLC—CONTINUANCE IN CONTROL
EXEMPTION—R.J. CORMAN RAILROAD COMPANY/LEHIGH LINE, LLC, R.J.
CORMAN RAILROAD COMPANY/OWEGO & HARFORD LINE, INC., AND R.J.
CORMAN RAILROAD COMPANY/LUZERNE & SUSQUEHANNA LINE, LLC

Decided: September 17, 2020

On August 19, 2020, verified notices of exemption and a notice of modified certificate of public convenience and necessity were concurrently filed in the captioned dockets with respect to several related transactions. In Docket No. FD 36428, R.J. Corman Railroad Company/Lehigh Line, LLC (RJLR), seeks to change operators and assume the lease and operation of approximately 56.0 miles of rail line in Bradford and Wyoming Counties, Pa. In Docket No. FD 36429, R.J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC (RJLS), seeks to change operators and assume the lease and operation of approximately 55.09 miles of rail line in Luzerne and Lackawanna Counties, Pa. In Docket No. FD 36430, R.J.

¹ These proceedings are not consolidated but are being addressed in the same decision for administrative convenience.

Corman Railroad Company/Owego & Harford Line, Inc. (RJOH), seeks a modified certificate of public convenience and necessity to operate 27.6 miles of rail line in New York. Finally, in Docket No. FD 36431, R.J. Corman Railroad Company, LLC (RJCR), seeks to continue in control of RJLR, RJLS, and RJOH upon their becoming Class III rail carriers.

The Board requests additional information about certain of these transactions, as follows.

Docket No. FD 36429. The verified notice in Docket No. FD 36429 identifies 10 line segments that collectively comprise the line at issue in that case. In the verified notice, RJLS states that it seeks to operate those 10 segments, which are currently operated by the Luzerne and Susquehanna Railway Company (LSX) pursuant to a lease and operating agreement from Luzerne County Rail Corporation. RJLS states that it will assume the lease obligations of LSX.

RJLS should confirm whether the description of the sixth line segment should read “(6) [between] Milepost 0.0, at Ashley, and milepost 2.0, at Hanover Industrial Track, a distance of 2.0 miles,” and, if not, provide further clarification. RJLS also is requested to identify the transaction, or set of transactions, in which LSX was authorized to operate over each of the 10 line segments. It appears that LSX was authorized to operate over several of the line segments in Luzerne & Susquehanna Railway—Lease & Operation Exemption—Certain Lines of Luzerne County Rail Corporation, FD 32563 (ICC served Sep. 23, 1994), but not all of them, and there are milepost discrepancies for certain segments. Specifically, although it appears that the descriptions of segments 4, 5, 7, 8, 9, and 10 in the verified notice are consistent with the notice in Docket No. FD 32563, there appear to be discrepancies in the mileage and/or descriptions for the remaining segments.

Finally, the statement concerning agreement in RJLS’s verified notice is unclear. It appears to indicate that RJLS has agreed in principle to assume two agreements: (1) a July 16, 2002 Lease and Operating Agreement and (2) an October 1, 2009 Extension Agreement that extended the Lease and Operating Agreement through July 15, 2025. RJLS further appears to indicate that a final version of a separate agreement consenting to the assignment and assumption of those two earlier agreements is expected to be executed shortly. RJLS is requested to confirm whether that understanding is correct and, if not, provide further clarification. RJLS also should identify the parties to the anticipated assignment and assumption agreement. To the extent that RJLS confirms that a separate agreement is being entered to assume the two earlier agreements, RJLS should confirm that that agreement does not contain any provision or agreement that would limit future interchange. See 49 C.F.R. § 1150.33(h). (See also Verified Notice 5, 9 (certifying with respect to “the Lease,” which it appears to define as the 2002 and 2009 agreements, collectively).)

Docket No. FD 36431. In certain previous control transactions, the authority was sought by both RJCR and R.J. Corman Railroad Group, LLC (RJRG). See, e.g., R.J. Corman R.R. Group, LLC—Acquis. of Control Exemption—Nashville & W. R.R., FD 36250 (STB served Nov. 23, 2018); R.J. Corman R.R. Group, LLC—Continuance in Control Exemption—R.J.

Corman R.R./Carolina Lines, FD 35898 (STB served Jan. 28, 2015); R.J. Corman R.R. Group, LLC—Continuance in Control Exemption—R.J. Corman R.R./Tex. Lines, LLC, FD 35840 (STB served July 9, 2014). RJCR should clarify whether RJRG should be a party here as well and, if not, explain why.

RJLS and RJCR will be directed to file a supplement by October 2, 2020, providing the information described above. The exemptions in each of the captioned proceedings will not become effective until further order of the Board.²

It is ordered:

1. RJLS and RJCR shall file a supplement by October 2, 2020, providing the information described above.
2. The exemptions in these proceedings will not become effective until further order of the Board.
3. This decision is effective on its date of service.

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

² Although no additional information is sought in Docket Nos. FD 36428 and FD 36430, these exemptions will not become effective to prevent unauthorized acquisition of control of RJLR and RJOH upon their becoming carriers.