

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36602]

SEDA-COG Joint Rail Authority—Acquisition Exemption with Interchange

Commitment—Norfolk Southern Railway Company

SEDA-COG Joint Rail Authority (the Authority), a noncarrier, has filed a verified notice of exemption to permit the Authority to acquire approximately 7.7 miles of rail line from Norfolk Southern Railway Company (NSR), excluding interest in the real property, known as the Selinsgrove Industrial Track in Snyder County, Pa., extending from milepost 0.0, at Selinsgrove Junction, Pa., to milepost 7.7, in Kreamer, Pa. (the Line).¹

According to the verified notice, the Authority is acquiring the Line from NSR pursuant to an asset purchase agreement. The Authority and NSR have also entered into a Freight Service Easement Agreement (FSEA), providing the Authority an easement and right to operate freight rail service on the Line and the PPL Track. According to the verified notice, the FSEA expressly contemplates that the Authority will enter into an

¹ The verified notice states that the Authority will also be purchasing from NSR certain track referred to as the Power Plant Lead (PPL Track), a 1.3-mile segment of 49 U.S.C. § 10906 excepted spur track in Snyder County. The Authority states that, because the Board does not have authority over the acquisition of § 10906 track, the PPL Track need not be included as part of its notice of exemption but is referenced for informational purposes and will be converted from 49 U.S.C. § 10906 spur track to 49 U.S.C. 10901 common carrier track as part of North Shore Railroad Company's operating exemption concurrently filed in Docket No. FD 36600, as discussed below.

agreement with a third-party operating railroad to operate the Line for the Authority. North Shore Railroad Company (North Shore), a Class III rail carrier, will operate over the Line pursuant to an operating agreement with the Authority and has concurrently filed a verified notice of exemption to operate the Line in North Shore Railroad Company—Operation & Trackage Rights Exemption—Lines of SEDA-COG Joint Rail Authority & Norfolk Southern Railway Company, Including Interchange Commitment, Docket No. FD 36600.²

The Authority certifies that its projected annual revenues from this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million. The Authority further states that the FSEA contains an interchange commitment that would limit future interchange with a third-party carrier other than NSR, and the Authority has provided additional information regarding the interchange commitment as required by 49 C.F.R. § 1150.33(h).³

The earliest this transaction may be consummated is April 23, 2022, the effective date of the exemption (30 days after the verified notice 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 filed at any time. The filing of a petition to revoke will not automatically stay the

² The Authority states that it is not seeking operating authority over the Line. However, a grant of acquisition authority provides the necessary authority to conduct operations and imposes an obligation to provide service upon reasonable request. See, e.g., Norfolk & W. Ry.—Acquis. Exemption—Consol. Rail Corp., FD 32957, slip op. at 1, n.2 (STB served Aug. 15, 1996); City of Austin—Acquis.—S. Pac. Transp. Co., FD 30861, slip op. at 1-2 (ICC served Nov. 4, 1986).

³ A copy of the FSEA containing the interchange commitment was filed under seal with the verified notice. See 49 C.F.R. § 1150.33(h)(1).

effectiveness of the exemption. Petitions for stay must be filed no later than April 15, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36602, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on the Authority's representative, Peter A. Pfohl, Slover & Loftus LLP, 1224 Seventeenth Street, N.W., Washington, DC 20036.

According to the Authority, 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: April 5, 2022.

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