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BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36726

PAN AM SOUTHERN LLC
—TEMPORARY OVERHEAD TRACKAGE RIGHTS—
BOSTON AND MAINE CORPORATION AND
SPRINGFIELD TERMINAL RAILWAY COMPANY

PETITION FOR WAIVER
EXPEDITED HANDLING REQUESTED

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Railroad, contract operator of Pan Am
Southern LLC*

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Pursuant to 49 C.F.R. §1180.4(f), Pan Am Southern LLC (“PAS”)¹ respectfully requests that the Surface Transportation Board (the “Board”) expeditiously grant a waiver of the requirement that “[t]o qualify for an exemption under §1180.2(d), a railroad must file a verified notice of the transaction with the Board ... at least 30 days before the transaction is consummated indicating the proposed consummation date.” 49 C.F.R. §1180.4(g)(1). PAS requests this waiver so that PAS/B&E can commence operations under the temporary trackage rights immediately, or no later than September 28, 2023.

Concurrently with this waiver, PAS is filing a Notice of Exemption pursuant to the class exemption at 49 C.F.R. § §1180.2(d)(8) and 1180.4(g) for limited overhead temporary trackage rights over certain rail lines owned by Boston and Maine Corporation (“B&M”) and leased and operated by Springfield Terminal Railway Company (“ST”), generally between PAS’s connection to B&M/ST’s tracks at Engineering Station 215+89 at CPF 312 outside Ayer, Mass. to Engineering Station 225+00 outside Ayer, Mass., a total distance of approximately 1,000 feet

¹ Pittsburg & Shawmut Railroad, LLC d/b/a Berkshire & Eastern Railroad (“B&E”) currently serves as the contract operator of PAS. *See Pittsburg & Shawmut R.R.—Operation Exemption—Pan Am Southern LLC*, FD 36472 (Sub-No. 5) (STB served Apr. 14, 2022).

(the “B&M/ST Line”). PAS’s use of the B&M/ST Line will be limited to repositioning locomotives.

PAS/B&E serves a facility located on the PAS line just west of the connection to the B&M/ST Line. Because of the lack of space on the PAS line between the facility and CPF 312, PAS/B&E currently does not have the necessary headroom to reposition PAS/B&E locomotives serving the facility, resulting in inefficiency and congestion on the PAS network. The parties have identified long-term and temporary solutions for this issue. As a long-term fix, PAS has agreed to install a “cross-over” on the PAS line that will permit PAS/B&E to reposition locomotives without operating off the PAS line. Procuring and installing the cross-over will take approximately 75 days. In the meantime, B&M/ST has agreed to allow PAS/B&E to use the B&M/ST Line for head and tail room in order for PAS/B&E to reposition locomotives serving the facility. The limited overhead temporary trackage rights sought in the notice of exemption will allow PAS/B&E to perform that move while the cross-over is installed.

Based on the schedule for installing the cross-over, the parties have agreed that the temporary overhead trackage rights will expire on December 5, 2023. Given the urgent need to reduce congestion on the PAS network by allowing PAS/B&E to use the B&M/ST Line to reposition locomotives, PAS hereby petitions the Board for a waiver of the requirements that PAS file its verified notice of exemption at least 30 days before the transaction is consummated (49 C.F.R. § 1180.4(g)(1)). Instead, PAS asks the Board to allow the exemption to take effect immediately, or no later than September 28, 2023.

The need for PAS/B&E to expeditiously conduct the above-described overhead movements over the B&M/ST Line establishes good cause for the Board to waive the 30-day notice requirement of 49 C.F.R. § 1180.4(g)(1).

In order to begin service immediately, PAS respectfully requests that the Board expeditiously waive the 30-day advance notice requirement of 49 C.F.R. § 1180.4(g)(1), and permit PAS/B&E to begin operations under the overhead temporary trackage rights with B&M/ST no later than September 28, 2023.

Respectfully submitted,



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