

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36726]

Pan Am Southern LLC—Temporary Overhead Trackage Rights—Boston and Maine Corporation and Springfield Terminal Railway Corporation

Pan Am Southern LLC (PAS) has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(8) to acquire temporary overhead trackage rights over a line owned by the Boston and Maine Corporation (B&M) and leased and operated by Springfield Terminal Railway Company (ST). That line generally extends between PAS's existing connection to B&M/ST's tracks at Engineering Station 215+89 at CPF 312 outside Ayer, Mass., and Engineering Station 225+00 outside Ayer, for a total distance of approximately 1,000 feet (the Line).¹

According to PAS, its use of the Line would be limited to repositioning locomotives. PAS states that Pittsburg & Shawmut Railroad, LLC d/b/a Berkshire & Eastern Railroad (B&E) currently serves as the contract operator of PAS and that PAS/B&E serve a facility located on PAS's line, just west of its connection to the Line. PAS explains that due to a lack of space on PAS's line between the facility and CPF 312, PAS/B&E do not have sufficient headroom to reposition PAS/B&E locomotives serving

¹ PAS filed a redacted copy of the draft written temporary trackage rights agreement as an exhibit to its verified notice, along with a separate motion for protective order pursuant to 49 C.F.R. § 1104.14. On September 22, 2023, PAS filed redacted and unredacted copies of the fully executed agreement. PAS's motion for protective order is addressed in a separate decision.

the facility, resulting in inefficiency and congestion on PAS's network. PAS notes an urgent need to reduce congestion on the PAS network and states that the limited overhead temporary trackage rights sought in this docket would provide PAS/B&E with the necessary head and tail room to reposition locomotives while PAS pursues a long-term solution to the issue, namely installation of a "cross-over" on PAS's line. PAS states that procurement and installation of the cross-over will take approximately 75 days, and that, based on that schedule, the parties have agreed that the temporary overhead trackage rights will expire on December 5, 2023.

On September 22, 2023, PAS filed a petition to waive the requirement under 49 C.F.R. § 1180.4(g) that a verified notice be filed at least 30 days before the transaction is consummated and to allow the exemption to take effect immediately, or no later than September 28, 2023. The effective date of the exemption will be addressed in a separate decision on the waiver request.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

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 effectiveness of the exemption.

All pleadings, referring to Docket No. FD 36726, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on PAS's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to PAS, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c)(3) and from historic reporting requirements under 49 C.F.R. § 1105.8(b)(3).

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

Decided: September 25, 2023.

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