

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36785]

City of Charlotte, N.C.—Acquisition Exemption—Norfolk Southern Railway Company

The City of Charlotte, N.C. (the City), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Norfolk Southern Railway Company (NSR) its right, title, and interests in the right-of-way, track, and related physical assets (the Assets) of an approximately 29.04-mile portion of NSR's O Line in Mecklenburg and Iredell Counties, N.C. (O Line Segment).¹ The O Line Segment extends from milepost O-0.04 in Charlotte, N.C., to milepost O-29.08 in Mooresville, N.C.

According to the City, under the terms of its agreements with NSR,² the City will acquire the Assets, with NSR retaining a permanent and exclusive easement preserving NSR's ability to fulfill its common carrier and related freight services over the O Line Segment. The City states that the acquisition is part of a planned expansion of the Charlotte Area Transit System, the City's regional transit network, which will better link northern suburban communities with the City of Charlotte. The City also states that it

¹ The City also filed a motion to dismiss the notice of exemption on the grounds that the transaction does not require authorization from the Board. The motion to dismiss will be addressed in a subsequent Board decision.

² Public and confidential versions of the Purchase and Sale Agreement and the Draft Comprehensive Rail Agreement (Agreements) were filed with the motion to dismiss. The confidential versions were submitted under seal concurrently with a motion for protective order, which is addressed in a separate decision.

will be prohibited under the Agreements from providing freight rail service or unreasonably interfering with NSR's freight service over the O Line Segment.

According to the verified notice, NSR will retain the easement to provide rail service to customers over, on, and connecting to the Assets.

The City certifies that the proposed transaction does not include any provision or agreement that would limit future interchange with a third-party connecting carrier. The City also certifies that, because it will not conduct any freight rail carrier operations over the Assets, its projected annual revenues will not exceed \$5 million and will not exceed those that would qualify the City as being a Class III rail carrier.

The transaction may be consummated on or after July 10, 2024, 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) maybe 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 July 3, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36785, must be filed with the Surface Transportation Board either via e-filing on the Board's website 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 the City's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to the City, this action is categorically excluded from environmental reporting requirements under 49 CFR 1105.6(c) and from historic preservation

reporting requirements under 49 CFR 1105.8(b).

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

Decided: June 21, 2024.

By the Board, Mai T. Dinh, Director, Office of Proceedings.