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SERVICE DATE – SEPTEMBER 16, 2019

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1020 (Sub-No. 2X)]

East Penn Railroad, LLC—Discontinuance of Service and Lease Operations—in
Northeast Philadelphia, Pa.

East Penn Railroad, LLC (ESPN), has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service and terminate its lease operations over approximately 1.8 miles of rail line owned by Norfolk Southern Railway Company (NSR) between milepost VE 0.00 and milepost VE 1.80 in Northeast Philadelphia, Pa. (the Line). The Line traverses U.S. Postal Service Zip Codes 19004 and 19127.

ESPN has certified that: (1) it has not moved any local or overhead traffic over the Line for at least two years; (2) overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the applicable requirements at 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

Any employee of ESPN adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)¹ to subsidize continued rail service has been received, this exemption will be effective on October 16, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)² must be filed by September 26, 2019.³ Petitions for reconsideration must be filed by October 7, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

¹ Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

² The filing fee for OFAs can be found at 49 C.F.R. § 1002.2(f)(25).

³ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

A copy of any petition filed with the Board should be sent to ESPN's representatives, William A. Mullins and Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

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

Decided: September 11, 2019.

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