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SERVICE DATE – DECEMBER 14, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36253]

Middletown & New Jersey Railroad, LLC—Lease Exemption Containing Interchange Commitment—Norfolk Southern Railway Company

Middletown & New Jersey Railroad, LLC (M&NJ), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease from Norfolk Southern Railway Company (NS) and to operate approximately 1.9 miles of rail line located between Four Story Junction at milepost UJ 0 and Middletown, N.Y., at milepost UJ 1.9, known as the Crawford Industrial Track (the Line).

According to M&NJ, in conjunction with the lease of the Line, it will also obtain incidental local and overhead trackage rights over rail line located between the western end of Campbell Hall yard at milepost JS 67.50, continuing for 9.1 miles to milepost JS 76.60 at CP Howells, and from milepost SR 68.90 at CP Howells, continuing for 21 miles to milepost SR 89.90 at or near Port Jervis, N.Y. (the Incidental Trackage Rights). M&NJ states that the Incidental Trackage Rights are being granted over a line owned by NS and currently leased to Metro-North Commuter Railroad Company pursuant to a sublease agreement under which NS retained the exclusive, irrevocable, and perpetual right to provide or permit rail freight service on the line. See Metro-North Commuter R.R.—Acquis. & Operation Exemption—Line of Norfolk S. Ry., FD 34293, slip op. at 2 (STB served May 13, 2003).

M&NJ certifies that its projected revenues as a result of this transaction will not result in M&NJ's becoming a Class I or Class II rail carrier and will not exceed \$5 million. As required under 49 C.F.R. § 1150.43(h)(1), M&NJ has disclosed in its verified notice that the lease agreement contains an interchange commitment that will require M&NJ to pay additional charges if it interchanges certain traffic with a rail carrier other than NS.¹ M&NJ has provided additional information regarding the interchange commitment as required by 49 C.F.R. § 1150.43(h).

M&NJ states that it expects to consummate the transaction on or shortly after the effective date of this notice of exemption. The earliest this transaction may be consummated is December 29, 2018 (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 effectiveness of the exemption. Petitions to stay must be filed no later than December 21, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36253, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on M&NJ's representative, Karl Morell, Karl Morell and Associates, Suite 440, 440 1st Street, N.W., Washington, DC 20001.

¹ A draft copy of the lease agreement was submitted under seal with the verified notice.

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

Board decisions and notices are available on our website at www.stb.gov.

Decided: December 11, 2018.

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