

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35471]

Nittany Bald and Eagle Railroad Company–Operation Exemption–SEDA-COG Joint Rail Authority

Nittany Bald and Eagle Railroad Company (N&BE), a Class III carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to operate approximately 1.8 miles of track, known as the Castanea Branch, extending between milepost 0.0 and milepost 1.8 in Castanea, Clinton County, Pa. The line is owned or leased by SEDA-COG Joint Rail Authority (SEDA-COG). N&BE states that the line it proposes to operate is an extension of its existing line of railroad it operates for SEDA-COG and that it will amend its agreement dated December 13, 2006, with SEDA-COG to provide common carrier rail service to multiple shippers on this extended line of railroad.¹

¹ While not submitted with the verified notice of exemption here, the operating agreement between SEDA-COG and N&BE has recently been filed at the Board in Susquehanna Union R.R.–Control Exemption–N. Shore R.R., Nittany & Bald Eagle R.R., Shamokin Valley R.R., Juniata Valley R.R., Lycoming Valley R.R., and Union Cnty. Indus. R.R., FD 35343, Pet. for Exemption Ex. B, Apr. 12, 2010. The parties are reminded that once the operator obtains Board authorization to provide common carrier rail service over a line, the common carrier obligation continues, notwithstanding any term of the parties' agreement, including term limitations and termination rights, unless and until the Board grants the appropriate discontinuance or abandonment authority. 49 U.S.C. § 10903; Chicago & N. W. Transp. Co. v. Kalo Brick & Tile Co., 450 U.S. 311, 320 (1981); Pittsburg & Shawmut R.R.–Aban. Exemption–in Armstrong and Jefferson Counties, Pa., AB 976X, slip op. at 1 (STB served Sept. 15, 2005).

N&BE indicates that it intends to interchange traffic with the Norfolk Southern Railway Company and/or Canadian Pacific Railway Company. N&BE also indicates that there are no interchange commitments in the operating agreement between it and SEDA-COG nor will there be any in the interchange agreements between N&BE and its connecting carriers as a result of this transaction.

The proposed transaction is scheduled to be consummated on or after March 27, 2011, the effective date of the exemption (30 days after this exemption was filed).

N&BE certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and further certifies that its projected annual revenues would not exceed \$5 million.

If the 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. Stay petitions must be filed no later than March 18, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35471, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Richard R. Wilson, Esq., 518 N. Center Street, Suite 1, Ebensburg, PA 15931

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Decided: March 8, 2011.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.