

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36285]

York Railway Company—Joint Relocation Project Exemption—in Hanover, Pa.

On March 26, 2019, York Railway Company (YRC) filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(5) to enter into a joint project with CSX Transportation, Inc. (CSXT), involving the relocation of a segment of YRC's rail line in Hanover, York County, Pa.

The purpose of the joint relocation project is to “simplify rail operations and maintenance by elimination of a crossing diamond and YRC track that will no longer be used, and to allow for the improvement of adjacent CSXT and YRC at-grade crossings by elimination of the YRC crossing.” (Verified Notice 4.) The proposed joint relocation project notice covers the following actions:

(1) the installation of a switch and switch lead (connecting track) by CSXT within its right of way, and the realignment of YRC's main line track to connect with the switch lead;

(2) the abandonment by YRC of approximately 0.32 miles of track between milepost 31.35 and milepost 31.67 (including removal of a CSXT-YRC diamond and a YRC at-grade crossing); and

(3) the grant of permanent trackage rights by CSXT to YRC over the CXST line between the proposed future connection of CSXT and YRC at the west end of the

Hanover Storage Track at approximate CSXT milepost BAS 53.98 and the connection of CSXT and YRC track near South Railroad Street at approximate CSXT milepost BAS 54.33.

YRC states that it does not serve any customers on the segment of track to be abandoned and that existing service to shippers and potential shippers at the west end of YRC's line will be preserved by trackage rights. According to YRC, because the trackage rights are overhead only, YRC will not gain access to any additional shippers. Thus, YRC states that no shippers will be affected by the relocation or lose access to any rail service provided by YRC.

The Board will exercise jurisdiction over the abandonment, construction, or sale components of a joint relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track or transfer of existing track involves expansion into new territory, or a change in existing competitive situations. See City of Detroit v. Canadian Nat'l Ry., 9 I.C.C.2d 1208 (1993), aff'd sub nom. Detroit/Wayne Cty. Port Auth. v. ICC, 59 F.3d 1314 (D.C. Cir. 1995); Ind. Rail Road—Joint Relocation Project—Terre Haute, Ind., FD 36123 (STB served Aug. 4, 2017). Line relocation projects may embrace trackage rights transactions such as the one involved here. See Detroit, Toledo & Ironton R.R.—Trackage Rights—Between Wash. Court House & Greggs, Ohio—Exemption, 363 I.C.C. 878 (1981).

Under these standards, the incidental abandonment, trackage rights, and construction components require no separate approval or exemption when the relocation

project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 C.F.R. § 1180.2(d)(5).

As a condition to this exemption, any employees affected by the 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).

The transaction may be consummated on or after April 25, 2019, the effective date of the exemption (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 transaction. Petitions to stay must be filed by April 18, 2019 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36285, 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 YRC's representative, Eric M. Hocky, Clark Hill PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

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

Decided: April 8, 2019.

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