

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35841]

Piedmont & Atlantic Railroad Co., Inc., d/b/a/ Yadkin Valley Railroad Company—Lease
Exemption Containing Interchange Commitment—Norfolk Southern Railway Company

Piedmont & Atlantic Railroad Co., Inc., d/b/a/ Yadkin Valley Railroad Company
(YVRR), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R.
§ 1150.41 to continue to lease from Norfolk Southern Railway Company (NSR) and
operate approximately 93 miles of rail line that extend: (1) approximately from milepost
K-37.0 at Rural Hall, Forsyth County, N.C., to milepost K-100.2 at North Wilkesboro,
Wilkes County, N.C.; and (2) approximately from milepost CF-0.0 at Mount Airy, Surry
County, N.C., to milepost CF-29.8 at Rural Hall, Forsyth County, N.C.¹

YVRR and NSR have recently amended their original lease agreement. The
amendment, among other things, extends the term of the original lease agreement.

YVRR states that both the original lease agreement and the amended lease agreement
contain a lease credit arrangement, which the Board has previously identified as a type of
interchange commitment in Information Required in Notices and Petitions Containing

¹ YVRR was granted authority to lease and operate the rail line in Piedmont &
Atlantic Railroad—Lease & Operation Exemption—L&S Holding Co., FD 32462 (ICC
served Mar. 29, 1994) (original lease agreement). Subsequently, YVRR became the
lessee (rather than the sub-lessee) of the line at issue.

Interchange Commitments, EP 714 (STB served Sept. 5, 2013). Accordingly, YVRR has provided the required information set forth at 49 C.F.R. § 1150.43(h)(1). However, YVRR and NSR assert that, under the facts of this transaction, the lease credit arrangement does not constitute an interchange commitment subject to the interchange commitment rules and have contemporaneously filed a joint motion to strike the information required under 49 C.F.R. § 1150.43(h) that YVRR has provided in its notice. The Board will address the motion to strike in a separate decision.

YVRR has certified that its projected annual revenues as a result of this transaction will not result in YVRR's becoming a Class II or Class I rail carrier. It appears, however, that its projected annual revenues will exceed \$5 million. Accordingly, YVRR is required, at least 60 days before this exemption is to become effective, to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. 49 C.F.R. § 1150.42(e).

YVRR, concurrently with its notice of exemption, filed a petition for waiver of the 60-day advance labor notice requirement under § 1150.42(e), asserting that: (1) no NSR employees will be affected because no NSR employees have worked on the line since 1997; and (2) no YVRR employees will be affected because YVRR's rail operations will remain substantially the same as its operations under the original lease agreement. YVRR's waiver request will be addressed in a separate decision.

YVRR states that it intends to consummate the transaction on or after the effective date of this notice. The Board will establish in the decision on the waiver request the earliest date this transaction may be consummated.

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. Petitions for stay must be filed no later than July 3, 2014.

An original and ten copies of all pleadings, referring to Docket No. FD 35841, 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 Rose-Michele Nardi, Transport Counsel PC, 1701 Pennsylvania Ave., NW, Ste. 300, Washington, DC 20006.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: June 24, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.