

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36195]

New Jersey Transit Corporation—Acquisition Exemption—Consolidated Rail Corporation in the County of Middlesex, N.J.

The New Jersey Transit Corporation (NJ Transit), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Consolidated Rail Corporation (Conrail) an approximately 3.3-mile portion of the property commonly known as the Delco Industrial Lead in Middlesex County, N.J., from milepost 33.1 to milepost 36.4 (the Line). NJ Transit states that, under the proposed transaction, Conrail would transfer to NJ Transit the real property and railroad fixtures associated with the Line. According to NJ Transit, Conrail will retain an exclusive operating easement to continue to provide freight rail service over the Line.<sup>1</sup>

NJ Transit states that, pursuant to a 1984 trackage rights agreement (1984 Agreement), it and Conrail have jointly used the Line for many years.<sup>2</sup> NJ Transit claims that its proposed acquisition will not affect or impair Conrail's ability to provide freight service to existing or future shippers. According to NJ Transit, it is acquiring the

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<sup>1</sup> NJ Transit also filed a motion to dismiss the notice of exemption on the grounds that the transaction does not require authorization from the Board. The motion to dismiss will be addressed in a subsequent Board decision.

<sup>2</sup> NJ Transit includes with its verified notice excerpts from the 1984 Agreement. It also submits documents implementing the current transaction including an agreement supplementing the 1984 Agreement, a quitclaim deed, and an agreement of sale.

property to provide commuter rail service and is not acquiring any right or obligation to provide freight service on the Line. NJ Transit also states that the agreements underlying the acquisition do not contain any provisions that would limit interchange with a third-party connecting carrier.

NJ Transit certifies that, because it will not conduct any rail carrier operations on the Line, its projected revenues from freight operations will not result in the creation of a Class I or Class II carrier.

NJ Transit states that it will consummate the proposed transaction at the conclusion of this exemption proceeding. The earliest this transaction may be consummated is June 20, 2018, the effective date of the exemption (30 days after the verified notice of exemption was filed).

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 June 13, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36195, 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 Charles A. Spitulnik, Kaplan Kirsch & Rockwell LLP, 1001 Connecticut Ave., N.W., Suite 800, Washington, DC 20036.

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Decided: May 30, 2018.

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