



Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9242

FEE RECEIVED Maquiling B. Parkerson
Assistant General Solicitor

SEP 29 2003

209009

Writer's Direct Dial Number

(757) 533-4939

(757) 533-4872 (fax)

E-mail: Maqui.Parkerson@nscorp.com

**SURFACE
TRANSPORTATION BOARD**

September 23, 2003

VIA U.S. Mail

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D. C. 20423-0001

FILED

SEP 29 2003

**SURFACE
TRANSPORTATION BOARD**



Re: Finance Docket No. 34396 – Notice of Exemption – Norfolk
Southern Railway Company – Corporate Family Transaction
Exemption – Atlantic and East Carolina Railway Company

Dear Mr. Williams:

In accordance with 49 CFR § 1180.4(g), please find enclosed for filing with the Surface Transportation Board one original and ten (10) copies of a Notice of Exemption submitted on behalf of Norfolk Southern Railway Company ("NSR") and Atlantic and East Carolina Railway Company ("AEC"). In addition, twenty (20) unbound copies of Exhibit 1 to the Notice of Exemption are enclosed as required by 49 CFR § 1180.6(a)(6). The Notice of Exemption concerns a proposed merger of AEC with and into NSR.

Also enclosed is a check for the filing fee of \$1,300 as provided in 49 CFR § 1002.2(f)(38)(iv). Finally, an additional copy of this letter is enclosed; please have it date stamped and returned to me at the above address.

Sincerely,

FEE RECEIVED

Enclosures

SEP 29 2003

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings

SEP 29 2003

Part of
Public Record

BEFORE THE

209009

FEE RECEIVED

SURFACE TRANSPORTATION BOARD

SEP 29 2003

**SURFACE
TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34396



NORFOLK SOUTHERN RAILWAY COMPANY

-- CORPORATE FAMILY TRANSACTION EXEMPTION --

ATLANTIC AND EAST CAROLINA RAILWAY COMPANY

NOTICE OF EXEMPTION

ENTERED
Office of Proceedings

SEP 29 2003

**Part of
Public Record**

FILED

SEP 29 2003

**SURFACE
TRANSPORTATION BOARD**

Maquiling B. Parkerson
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-9241
(757) 629-2834

Counsel for Norfolk Southern Railway
Company and Atlantic and East Carolina
Railway Company

Dated: September 23, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34396

NORFOLK SOUTHERN RAILWAY COMPANY
-- CORPORATE FAMILY TRANSACTION EXEMPTION --
ATLANTIC AND EAST CAROLINA RAILWAY COMPANY

NOTICE OF EXEMPTION

NOW COME Norfolk Southern Railway Company ("NSR") and Atlantic and East Carolina Railway Company ("AEC") and state as follows:

This is a notice of intent to engage in a transaction found by the Surface Transportation Board (the "Board") to be presumptively exempt from Board regulation pursuant to 49 U.S.C. § 10502, to wit, a transaction within a corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. See 49 C.F.R. § 1180.2(d)(3).

The Board's regulations at § 1180.4(g)(1) provide that, to avail itself of such an exemption, a rail carrier must file with the Board a verified notice of the transaction. Accordingly, NSR and AEC file this notice and submit the following required information:

I. Description of Transaction

(a) This notice is filed on behalf of Norfolk Southern Railway Company, a Virginia corporation ("NSR"), and Atlantic and East Carolina Railway Company, a North Carolina

corporation ("AEC"). NSR and AEC each has a business address at Three Commercial Place, Norfolk, Virginia 23510-2191. The name, address and telephone number of the parties' counsel to whom questions may be addressed is:

Maquiling B. Parkerson
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-9241
(757) 533-4939

NSR is a Class I railroad that, together with its rail subsidiaries, operates approximately 21,500 miles of railroad in 22 states, the District of Columbia and the province of Ontario. AEC operates over approximately 94.7 miles of road located in North Carolina pursuant to a trackage rights agreement between NSR and AEC. NSR owns trackage rights over the same trackage pursuant to a grant from the North Carolina Railroad Company, which permits NSR to grant trackage rights to its subsidiaries.

NSR is controlled through stock ownership by Norfolk Southern Corporation, a non-carrier holding company.

NSR owns all of the authorized capital stock of AEC. AEC has been controlled by NSR or its predecessors through stock ownership since approximately 1989.

The proposed transaction, which is designed to further the goal of corporate simplification, will be accomplished as a direct merger of AEC into NSR pursuant to the statutory short-form merger provisions of Virginia and North Carolina law.

AEC and NSR will enter into an Agreement and Plan of Merger substantially in the form of Exhibit 2 hereto ("Merger Agreement"), which will provide, among other things, that, subject to necessary regulatory approval or exemption, AEC will be merged into and with NSR. All

shares of capital stock of AEC will be cancelled and retired, and no consideration will be paid in respect of such shares.

At the effective time of the merger, AEC will be merged with and into NSR, and the separate corporate existence of AEC will cease. NSR, as the surviving corporation, will succeed to ownership of all assets of AEC and will be responsible for all debts and obligations of AEC.

The proposed merger will not result in any significant changes in rail operations over the properties owned by AEC. Service levels and customers' access to rail service will not be affected by the transaction.

No effects on employees are anticipated. The interests of rail employees will be addressed adequately by imposition of standard labor protective conditions pursuant to 49 U.S.C. §§ 10502(g) and 11326 and as set forth in New York Dock Ry. – Control – Brooklyn Eastern Dist., 360 I.C.C. 60 (1979), as clarified by Wilmington Terminal R.R. – Pur. & Lease – CSX Transp., 6 I.C.C.2d 799 (1990).

NSR and AEC expect to consummate the proposed merger on or as soon as practicable after August 31, 2003. The principle purpose of the proposed merger is to eliminate AEC as a separate corporate entity, thereby simplifying the corporate structure of NSR and the NSR system and eliminating costs associated with separate accounting, tax, bookkeeping and reporting functions.

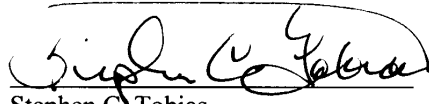
(b) NSR and its railroad subsidiaries own or operate lines of railroad in the States of Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia and in Washington, D.C.

Pursuant to its trackage rights agreement with NSR, AEC operates over lines located entirely within the State of North Carolina. A map showing the lines of railroad operated over by AEC in relation to the NSR rail system is attached hereto as Exhibit 1. A copy of the proposed Merger Agreement is attached hereto as Exhibit 2.

II. Other Matters

The proposed transaction will not have a significant effect on the quality of the human environment or on the consumption of energy. Because the proposed merger involves only a change in ownership or similar changes not involving a change in carrier operations, no environmental reports or documentation are required. See 49 C.F.R. § 1105.6(c)(2). Similarly, because the proposed merger will involve only a transfer of AEC's rights and assets between corporate affiliates with no significant change in operations, no historic report is required. See 49 C.F.R. § 1105.8(b)(2).

Respectfully Submitted,



Stephen C. Tobias
Vice President, Norfolk Southern Railway
Company
President, Atlantic and East Carolina Railway
Company

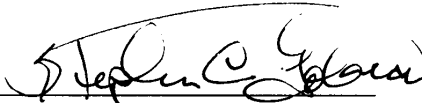
Of counsel:
Maquiling B. Parkerson
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-9241
(757) 533-4939

Dated: September 23, 2003

VERIFICATION

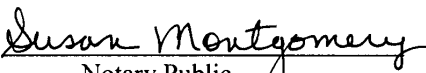
COMMONWEALTH OF VIRGINIA)
) ss
CITY OF NORFOLK)

Stephen C. Tobias, being duly sworn, deposes and says that he is Vice President of Norfolk Southern Railway Company and President of Atlantic and East Carolina Railway Company; that he is authorized to sign, verify and file with the Surface Transportation Board the foregoing Notice of Exemption; that he has carefully examined all of the statements contained in said Notice of Exemption; that he has knowledge of the matters set forth therein insofar as those matters relate to Norfolk Southern Railway Company and Atlantic and East Carolina Railway Company; and that all such statements made and matters set forth with respect to Norfolk Southern Railway Company and Atlantic and East Carolina Railway Company are true to the best of his knowledge, information and belief.



Stephen C. Tobias

Subscribed and sworn to before me
this 10th day of September 2003.



Notary Public

My commission expires: 2-28-06

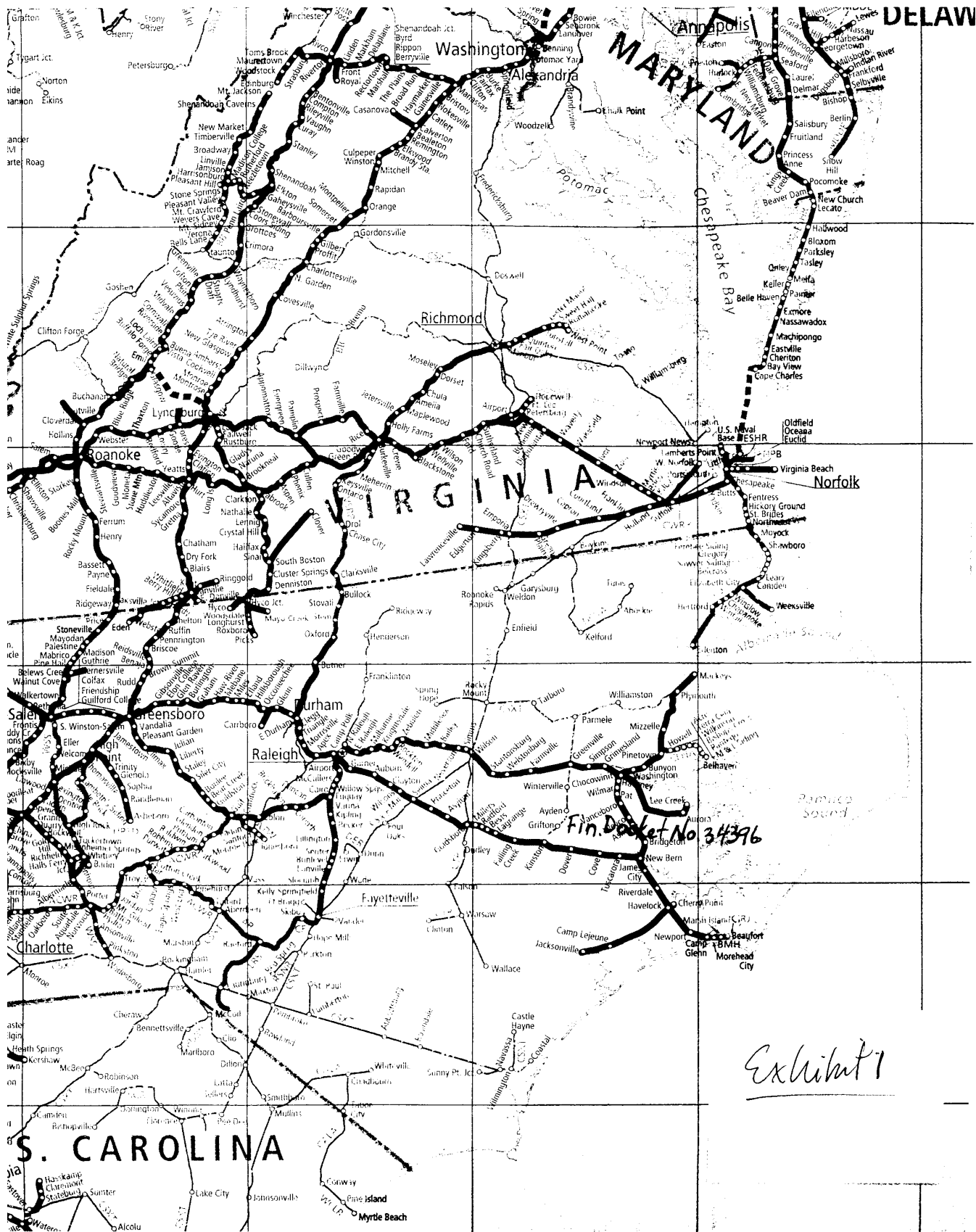


Exhibit 2

PLAN OF MERGER

Atlantic and East Carolina Railway Company
with and into
Norfolk Southern Railway Company

This Plan of Merger is made and entered into this 9th day of September 2003, by and between Atlantic and East Carolina Railway Company, a North Carolina corporation ("A&EC"), and Norfolk Southern Railway Company, a Virginia corporation ("NSR" or the "Surviving Corporation").

RECITALS

A. A&EC is a corporation organized and existing under the laws of the State of North Carolina and has authorized capital stock consisting of 1,000 shares of common fully paid, nonassessable stock with no par value, of which 1,000 shares are issued and outstanding, and held by NSR.

B. NSR is a corporation organized and existing under the laws of the Commonwealth of Virginia and has authorized capital stock consisting of 50,000,000 shares of common fully paid, nonassessable stock with no par value, of which 16,668,997 shares are issued and outstanding; and 10,000,000 shares of Series A, Cumulative Preferred Stock fully paid, nonassessable stock par value \$2.60, of which 1,197,027 shares are issued and outstanding.

C. The Boards of Directors of NSR deems it advisable for A&EC to merge with and into NSR.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, A&EC and NSR hereby agree to the following Plan of Merger:

1. Names of Constituent Corporations. A&EC will merge with and into NSR. NSR will be the Surviving Corporation.
2. Terms and Conditions of Merger. The effective date of merger shall be the date upon which the Articles of Merger are filed with the Secretary of State. Upon the effective date of the merger: the separate corporate existence of A&EC shall cease; title to all real estate and other property owned by A&EC or NSR shall be vested in NSR without reversion or impairment; and the Surviving Corporation shall have all liabilities of A&EC and NSR. Any proceeding pending by or against A&EC or NSR may be continued as if such merger did not occur, or the Surviving Corporation may be substituted in the proceeding for A&EC.
3. Governing Law. The laws of the Commonwealth of Virginia shall govern the Surviving Corporation.
4. Name. The name of the Surviving Corporation shall be Norfolk Southern Railway Company.
5. Registered Office. The address of the registered office of the Surviving Corporation shall be Three Commercial Place, Norfolk, Virginia 23510.

6. Accounting. The assets and liabilities of A&EC and NSR (collectively the "Constituent Corporations") as of the effective date of the merger shall be taken up on the books of the Surviving Corporation at the amounts at which they are carried at that time on the respective books of the Constituent Corporations.

7. The Articles of Incorporation and Bylaws. The Articles of Incorporation and Bylaws of NSR as of the effective date of the merger shall be the Articles of Incorporation and Bylaws of the Surviving Corporation until the same shall be altered or amended in accordance with the provisions thereof.

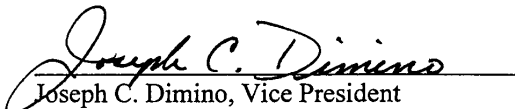
8. Directors. The directors of NSR as of the effective date of the merger shall be the directors of the Surviving Corporation until their respective successors are duly elected and qualified.

9. Manner and Basis of Converting Shares. NSR owns one hundred percent (100%) of the issued and outstanding shares of the common stock of A&EC. There is no other class of stock authorized. On the effective date of the merger, all of the issued and outstanding shares of common stock in A&EC shall be cancelled. All of the issued and outstanding shares of stock of NSR shall remain unaffected; no additional shares thereof shall be issued as a result of this merger.

10. Termination of Merger. This merger may be abandoned at any time prior to the filing of Articles of Merger with the North Carolina Secretary of State, upon a vote of a majority of the Board of Directors of NSR. If the merger is terminated, there shall be no liability on the part of either Constituent Corporation, their respective Boards of Directors, or shareholders.

14. Counterparts. This Plan of Merger may be executed in any number of counterparts, and all such counterparts and copies shall be and constitute an original instrument.

IN WITNESS WHEREOF, this Plan of Merger has been adopted by the undersigned on behalf of, and pursuant to the authorization of the directors of Norfolk Southern Railway Company as of this 4th day of September, 2003.


Joseph C. Dimino, Vice President
Norfolk Southern Railway Company

State of North Carolina
Department of the Secretary of State

ARTICLES OF MERGER
FOREIGN AND DOMESTIC BUSINESS CORPORATION

Pursuant to Sections 55-11-05 and 55-11-07 of the General Statutes of North Carolina, the undersigned corporation does hereby submit the following Articles of Merger as the surviving corporation in a merger between a domestic business corporation and one or more foreign business corporations.

1. The name of the surviving corporation is Norfolk Southern Railway Company,
a corporation organized under the laws of the Commonwealth of Virginia; the name of the merged corporation
is Atlantic and East Carolina Railway Company, a corporation organized under the laws of
the State of North Carolina.
 2. Attached is a copy of the Plan of Merger that was duly approved in the manner prescribed by law by each of the corporations
participating in the merger.
 3. With respect to the surviving corporation (*check either a or b, as applicable*):
a. ☒ Shareholder approval was not required for the merger.
b. ☐ Shareholder approval was required for the merger and the plan of merger was approved by the shareholders as required
by Chapter 55 of the North Carolina General Statutes.
 4. With respect to the merged corporation (*check either a or b, as applicable*):
a. ☒ Shareholder approval was not required for the merger.
b. ☐ Shareholder approval was required for the merger, and the plan of merger was approved by the shareholders as required
by Chapter 55 of the North Carolina General Statutes.
 5. The merger is permitted by the law of the state or country of incorporation or organization of each foreign entity which is a
party.
 6. Each foreign entity which is a party has complied or shall comply with the applicable laws of its state or country of
incorporation or organization.
 7. (*Complete only if applicable – see instructions.*) The mailing address of the surviving foreign corporation
is: _____ The surviving foreign
corporation will file a statement of any subsequent change in its mailing address with the North Carolina Secretary of State.
 8. These articles will be effective upon filing, unless a delayed date and/or time is specified: _____
- This is the 9th day of September, 2003.

Norfolk Southern Railway Company

Name of Corporation


Signature

Joseph C. Dimino, Vice President

Type or Print Name and Title

Notes:

1. Filing fee is \$50. This document must be filed with the Secretary of State.
2. Certificate(s) of Merger must be registered pursuant to the requirements of N.C.G.S. Section 47-18.1

Instructions for Filing

ARTICLES OF MERGER FOR FOREIGN AND DOMESTIC BUSINESS CORPORATIONS

(Form B-12)

- ITEM 1** Enter the complete corporate name of the surviving corporation as it appears in the records of the Secretary of State. Enter the state or country in which the surviving corporation was organized. Enter the complete corporate name of the merged corporation as it appears in the records of the Secretary of State and the state or country in which the merged corporation was organized.
- ITEM 2** Attach a copy of the Plan of Merger.
- ITEM 3** Check either a. or b. regarding shareholder approval for the surviving corporation.
- ITEM 4** Check either a. or b. regarding shareholder approval for the merged corporation.
- ITEM 5** See form. *N.C.G.S. §55-11-07*
- ITEM 6** See form. *N.C.G.S. §55-11-07*
- ITEM 7** This section should be completed only if the surviving corporation is a foreign corporation that is not authorized to transact business in North Carolina. *N.C.G.S. § 55-11-07(a)(3)* requires such a corporation to designate its mailing address with the Secretary of State and to commit to file a statement of any subsequent change in its mailing address with the Secretary of State.
- ITEM 8** The document will be effective on the date and at the time of filing, unless a delayed date or an effective time (on the day of filing) is specified. If a delayed effective date is specified without a time, the document will be effective at 11:59:59 p.m. on the day specified. If a delayed effective date is specified with a time, the document will be effective on the day and time so specified. A delayed effective date may be specified up to and including the 90th day after the day of filing.

Date and Execution

Enter the date the document was executed (day, month, year.)

In the blanks provided enter:

- The name of the surviving or acquiring corporation executing the Articles of Merger.
- The signature of the representative of the surviving or acquiring corporation.
- The printed or typed name and title of the above-signed representative.

6767_1.DOC