



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36374]

East Penn Railroad, L.L.C.—Lease and Operation Exemption Containing Interchange Commitment—Norfolk Southern Railway Company

East Penn Railroad, L.L.C. (ESPN), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease and operate approximately 5.2 miles of rail lines from Norfolk Southern Railway Company (NSR), in York, Pa.<sup>1</sup> ESPN will continue to lease: (1) the York Industrial Track, located between mileposts YR 7.50 and YR 12.31 (York Track) (4.81 miles in length); and (2) the Wye Track that connects the York Track to NSR's line, located between mileposts YR 12.31 and YR 12.70 (Wye Track) (0.39 miles in length).

ESPN leased the York Track and the Wye Track from NSR in 2011. See E. Penn R.R.—Lease & Operation Exemption—Norfolk S. Ry., FD 35533 (STB served July 15, 2011). According to the present verified notice, ESPN and NSR have entered into an amended lease agreement (Amended Agreement) which, among other things, extends the term of the lease to July 31, 2026.

ESPN certifies that the projected annual revenues as a result of the proposed transaction will not result in ESPN's becoming a Class II or Class I rail carrier and will not exceed \$5 million. As required under 49 CFR 1150.43(h)(1), ESPN has disclosed in

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<sup>1</sup> ESPN initially submitted the verified notice on January 6, 2020. On January 15, 2020, ESPN filed a supplement to provide a map of the Wye Track. In light of that supplement, January 15, 2020, is deemed the filing date of the verified notice.

its verified notice that the Amended Lease contains an interchange commitment, in the form of a lease credit for each car interchanged with NSR.<sup>2</sup> ESPN has provided additional information regarding the interchange commitment as required by 49 CFR 1150.43(h).

The transaction may be consummated on or after February 14, 2020, the effective date of the exemption (30 days after the verified notice of exemption 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 effectiveness of the exemption. Petitions to stay must be filed by February 7, 2020 (at least seven days prior to the date the exemption becomes effective).

All pleadings, referring to Docket No. FD 36374, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on ESPN's representative, Karl Morell, Karl Morell & Associates, 440 1st Street, N.W., Suite 440, Washington, DC 20001.

According to ESPN, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

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<sup>2</sup> A copy of the Amended Agreement with the interchange commitment was submitted under seal. See 49 CFR 1150.43(h)(1).

Decided: January 24, 2020.

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

Jeffrey Herzig,

Clearance Clerk.

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