

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 35841

PIEDMONT & ATLANTIC RAILROAD CO., INC., D/B/A
YADKIN VALLEY RAILROAD COMPANY.
-- LEASE EXEMPTION CONTAINING INTERCHANGE COMMITMENT--
NORFOLK SOUTHERN RAILWAY COMPANY

PETITION FOR WAIVER

EXPEDITED HANDLING REQUESTED

Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company ("YVRR") currently leases from Norfolk Southern Railway Company ("NS") certain rail lines in North Carolina. YVRR and NS have now entered into an amendment to the original lease.

In connection with this lease amendment, YVRR is filing a verified notice of exemption, under 49 C.F.R. § 1150.41 (the "Notice"), with the Surface Transportation Board (the "Board"). YVRR hereby seeks a waiver from the labor notice requirements at 49 C.F.R. § 1150.42(e), either in whole or in part (*i.e.*, a reduction of the 60-day notice period to coincide with the effective date of the related notice of exemption discussed below) (the "Petition"). The waiver is appropriate in this case because it will not thwart the purposes the labor notice requirement was intended to serve.

I. Statement of Facts.

Pursuant to the Notice, which was filed contemporaneously with this Petition, YVRR seeks authority to continue to lease and operate the following rail lines: (1) approximately from milepost K-37.0 at Rural Hall, Forsyth County, NC to milepost K-

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100.2 at North Wilkesboro, Wilkes County, NC, and (2) approximately from milepost CF-0.0 at Mount Airy, Surry County, NC to milepost CF-29.8 at Rural Hall, Forsyth County, NC (together, the "Subject Lines"). YVRR previously received regulatory authority to lease and operate the Subject Lines. *See* Finance Docket No. 32462, *Piedmont & Atlantic Railroad Co., Inc. – Lease and Operation Exemption – L&S Holding Company d/b/a Laurinburg & Southern Railroad Co. and Yadkin Valley Railroad Company.*¹

YVRR's rail operations will remain substantially the same as its operations under the original lease. YVRR does not anticipate that the lease amendment will create any new or additional jobs, or eliminate any jobs, on the Subject Lines. No adverse changes in working conditions, rates of pay or benefits of YVRR employees are expected to result from the consummation of the lease amendment.² Similarly, NS employees will not be adversely affected by the lease amendment, because no NS employees have worked on the line since August 20, 1997.³

II. Basis for Granting the Petition.

The purpose of this labor notice requirement “is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.” *See* STB Finance Docket No. 35066, *Columbia Basin Railroad Company, Inc. – Acquisition and Operation Exemption – BNSF*

¹ Initially YVRR leased the Subject Lines as a sublessee, but subsequently became the lessee.

² YVRR employees working on the subject lines are not represented by any labor organization.

³ Prior to that time, NS employees operated over approximately three miles of YVRR track (all within yard limits), solely for purposes of facilitating interchange.

Railway Company and BNSF Acquisition, Inc., served November 30, 2007. As set forth below, this purpose would not be thwarted by the granting of this Petition.

No employees of NS have worked on the subject lines for almost seven years. Accordingly, no employees of NS will be displaced as a result of the lease amendment, and no employees of NS will be forced to make the type of career choice the Board contemplated when it adopted the notice requirement. *See* STB Ex Parte No. 562, *Acquisition of Rail Lines Under 49 U.S.C. 10901 and 10902 – Advance Notice of Proposed Transactions*, 1997 WL 555638, served Sept. 9, 1997 (“*Advanced Notice Proceeding*”).

Similarly, existing YVRR employees working on the subject lines should not be adversely affected by the consummation of the lease amendment: The lease amendment is not expected to reduce the number of available jobs on these lines or negatively affect the working conditions, rates of pay or benefits of YVRR employees working on these lines.

The Board recently has granted a waiver request under similar circumstances. *See* STB Finance Docket No. 35777, *New Orleans & Gulf Coast Railway Company, Inc. - Lease Exemption Containing Interchange Commitment - Union Pacific Railroad Company*, served Dec. 12, 2013 (granting waiver for a lease amendment). *See also* STB Finance Docket No. 35066, *Columbia Basin Railroad Company, Inc. – Acquisition and Operation Exemption – BNSF Railway Company and BNSF Acquisition, Inc.*, served November 30, 2007 (granting waiver in a transaction converting lease to ownership). A waiver is equally applicable in this case.

On June 13, 2014, YVRR posted a notice of the lease amendment pursuant to 49 C.F.R. § 1150.42(e). Contemporaneous with this Petition, YVRR is filing with the Board a Certificate of Posting, certifying YVRR's posting of the labor notice. (YVRR has not notified the national labor organizations because no YVRR employee working on the leased lines is represented by such an organization.)⁴ Pursuant to this Petition, YVRR requests that the labor notice requirement for this transaction either be waived entirely or reduced to coincide with the effective date of the Notice.

As this Petition demonstrates, a waiver of the labor notice requirement in this case will not thwart the intended purposes of the notice requirement. The waiver will enable the lease amendment to be consummated without unnecessary delay.

III. Conclusion.

For all the foregoing reasons, YVRR requests that the Board grant this Petition.

Respectfully submitted,

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⁴ See *Advanced Notice Proceeding*, at *6 (“If there are no union employees on the line, no useful purpose would be served by requiring that national unions be notified”).