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SERVICE DATE – JANUARY 15, 2016

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 35988]

East Penn Railroad, LLC—Lease Exemption Containing Interchange Commitment—
Norfolk Southern Railway Company

East Penn Railroad, LLC (ESPN), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease from Norfolk Southern Railway Company (NSR) 1.8 miles of rail line located between milepost VE 0.00 and milepost VE 1.80 near Philadelphia, Pa. (the Line). ESPN will be the operator on the Line.

ESPN states that it will shortly enter into an agreement with NSR for the lease of the Line. As required by 49 C.F.R. § 1150.43(h), ESPN has disclosed in this notice that the lease agreement contains a provision that will enable ESPN to reduce its lease payments by receiving a credit for each car interchanged with NSR.¹ ESPN states that it requested the lease credit option in order to provide it with an opportunity to earn lower rental payment so that ESPN will be able to invest in improvements on the Line to increase traffic levels. The affected interchange point is West Falls Yard, Philadelphia, Pa.

ESPN has certified that its projected annual revenues as a result of the proposed transaction will not result in ESPN becoming a Class II or Class I rail carrier. ESPN has further certified that its projected annual rail freight revenues from operation of the Line,

¹ ESPN has filed the lease agreement under seal pursuant to 49 C.F.R. § 1150.43(h)(1)(ii).

when combined with ESPN's projected revenues from current rail freight operations, would not exceed \$5 million.

ESPN states that it intends to consummate the transaction on or after January 29, 2016, the effective date of the exemption (30 days after the 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 for stay must be filed no later than January 22, 2016 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35988, 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 Karl Morell, Karl Morell & Associates, Suite 225, 655 15th Street, N.W., Washington, DC 20005.

According to ESPN, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

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Decided: January 12, 2016.

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