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SERVICE DATE – AUGUST 17, 2007

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35067]

Norfolk Southern Railway Company –Trackage Rights Exemption –Commonwealth
Railway Incorporated

Pursuant to a written trackage rights agreement, Commonwealth Railway Incorporated (CWRV) has agreed to grant non-exclusive overhead trackage rights to Norfolk Southern Railway Company (NSR) over CWRV's rail line extending between milepost F-9.90 near Churchland, VA, and milepost F-16.50 near Suffolk, VA, a distance of approximately 6.60 miles.¹

CWRV indicates that the transaction is scheduled to be consummated on the later of September 3, 2007, or the effective date of the exemption. Because this notice was filed on August 6, 2007, the earliest the transaction could be consummated is September 5, 2007 (30 days after the exemption was filed).

The purpose of the trackage rights is to allow the parties to achieve operating economies and provide improved service on the line through NSR's operation of its trains, locomotives, cars and equipment with its own crews, in its own account, to access

¹ A redacted draft version of the trackage rights agreement between CWRV and NSR was filed with the notice of exemption. The full draft version was concurrently filed under seal along with a motion for protective order, which will be addressed in a separate decision. As required by 49 CFR 1180.6(a)(7)(ii), the parties must file a copy of the executed agreement within 10 days of the date the agreement is executed.

CWRY's Marshalling Yard and related main line trackage for the purpose of interchange of railcars between NSR and CWRY. NSR will not perform any local freight service on the line. CWRY currently leases the line from NSR.²

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). 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. Stay petitions must be filed by August 29, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35067, must be filed with the Surface Transportation Board, 395 E Street, S.W.,

² See Commonwealth Railway Incorporated—Lease, Operation, and Acquisition Exemption—Rail Lines in Portsmouth, Chesapeake, and Suffolk, VA, Finance Docket No. 31528 (ICC served Sept. 8, 1989). But in Commonwealth Railway Incorporated — Acquisition and Operation Exemption—Norfolk Southern Railway Company, STB Finance Docket No. 34954 (STB served Dec. 21, 2006), CWRY was authorized to acquire and operate approximately 12.5 miles of rail line owned by NSR between milepost F-4.0 and milepost F-16.5 near Portsmouth, VA, and CWRY agreed to grant NSR and CSX Transportation, Inc. trackage rights over a portion of the line between milepost F-16.5 and milepost F-9.9 to allow each connecting carrier equal access to CWRY and the rail line. According to NSR, the parties have not yet consummated the sale transaction, but contemplate that the trackage rights that are the subject of this notice will be effective regardless of whether CWRY is the lessee/operator or the owner/operator of the line.

Washington, DC 20423-0001. In addition, a copy of each pleading must be served on James R. Paschall, Senior General Attorney, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510.

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“WWW.STB.DOT.GOV.”

Decided: August 10, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary