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SERVICE DATE – NOVEMBER 6, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35648

PENN-OHIO TRANSPORTATION, LLC—ACQUISITION EXEMPTION—EASTERN STATES RAILROAD, LLC AND COLUMBIANA COUNTY PORT AUTHORITY

Decided: November 5, 2012

On July 13, 2012, Penn-Ohio Transportation, LLC (Penn-Ohio), a noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1150.31 to: (1) acquire from Eastern States Railroad, LLC (ESR), its lease and operating rights to approximately 35.7 miles of rail line, referred to as the Youngstown-Darlington Line, extending between milepost 0.0 in Youngstown, Ohio, and milepost 35.7 in Darlington, Pa., currently operated by the Youngstown & Southeastern Railway Company (YSRC) and owned by Columbiana County Port Authority (CCPA); (2) receive permanent assignment of ESR's and CCPA's agreements and operating rights to approximately three miles of continuous track segments running east of milepost 0.0 that connect to the Youngstown-Darlington Line and that facilitate interchange with Norfolk Southern Railway Company and CSX Transportation, Inc.; and (3) acquire from CCPA the Youngstown-Darlington Line, as well as any operating rights held by CCPA. Notice of the exemption was served and published in the Federal Register on July 27, 2012 (77 Fed. Reg. 44,310). The effective date of the exemption was August 12, 2012.

On September 13, 2012, CCPA filed a petition to revoke Penn-Ohio's exemption on grounds that the notice contained false and/or misleading statements. On September 24, 2012, YSRC filed a statement in support of CCPA's petition. Penn-Ohio replied on October 3, 2012, by filing a Notice of Withdrawal of Verified Notice of Exemption in which it notes that the transaction was never consummated. On October 23, 2012, CCPA filed a withdrawal of its petition to revoke and gave notice that a settlement agreement had been reached.

Given that the parties state that they have resolved all issues related to this proceeding, and that Penn-Ohio states that the transaction was never consummated, Penn-Ohio's motion to withdraw its notice of exemption, and CCPA's request to withdraw its petition to revoke, the notice of exemption will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Penn-Ohio's request for withdrawal is granted and the proceeding is dismissed without prejudice.
2. CCPA's request for withdrawal is granted.
3. This decision is effective on its date of service.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.