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SERVICE DATE - JULY 22, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34223]

John C. Nolan—Control Exemption—Penn Eastern Rail Lines, Inc.

John C. Nolan, a noncarrier individual, has filed a verified notice of exemption to acquire control through stock ownership of Penn Eastern Rail Lines, Inc. (PRL), a Class III railroad.¹ Applicant currently controls through stock ownership another Class III railroad, East Penn Railway, Inc. (EPRY).²

The transaction was expected to be consummated on or shortly after July 1, 2002, the effective date of the exemption.

Applicant states that: (i) the railroads will not connect with each other; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the railroads with each other; and (iii) the transaction does not involve a Class I carrier. Therefore,

¹ PRL is an indirect wholly owned subsidiary of Genesee & Wyoming Inc., a noncarrier holding company. PRL currently operates in eastern Pennsylvania and interchanges with CSX Transportation (CSXT) at Bristol, PA, and with Norfolk Southern Railway Company at specified points in Pennsylvania.

² EPRY operates in eastern Pennsylvania and interchanges with CSXT at Telford, PA.

the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).³

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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 transaction.

An original and 10 copies of all pleadings referring to STB Finance Docket No. 34223, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John K. Fiorilla, 390 George Street, P.O. Box 1185, New Brunswick, NJ 08903.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: July 15, 2002.

³ Applicant states that he intends that PRL and EPRY will be operated as separate entities.

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

Vernon A. Williams

Secretary