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SERVICE DATE – DECEMBER 10, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35312]

Massachusetts Department of Transportation—Acquisition Exemption—Certain Assets of CSX Transportation, Inc.

Massachusetts Department of Transportation (MassDOT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from CSX Transportation, Inc. (CSXT) certain physical assets of railroad lines and associated rights-of-way in Massachusetts, including: (1) portions of the Grand Junction Branch, extending 4.87 miles between milepost QBG 0.00 and milepost QBG 2.70, and between milepost QBG 5.70 and milepost QBG 7.87; (2) a portion of the Boston Terminal Running Track, extending 1.10 miles between milepost QBB 0.00 and milepost QBB 1.10; (3) the New Bedford Secondary, extending 18.48 miles between milepost QN 13.40 (at Cotley Junction) and milepost QN 31.80 (at New Bedford), including CSXT's property interests in the right-of-way and track assets of the North Dartmouth Industrial Track (also known as the Watuppa Branch) between milepost QND 0.0 and milepost QND 0.08 and CSXT's property interests in the right-of-way but not the track assets between milepost QND 0.08

and milepost QND 6.0;<sup>1</sup> (4) the Fall River Secondary, extending 14.20 miles between milepost QNF 0.00 (at Myricks) and milepost QNF 14.2 (at Fall River, Massachusetts – Rhode Island state line); (5) the Framingham to Worcester segment of the Boston Main Line (the BML-West), extending approximately 22.92 miles between milepost QB 21.38 (at Framingham) and milepost QB 44.30 (at Worcester); and (6) the track assets, but not the underlying real estate, constituting the 9.71-mile rail line between milepost QB 1.12 (at CP Cove) and milepost QB 10.83 (at Newton/Riverside) (the BML-East). These properties, which include approximately 71.28 miles of rail line, will be referred to collectively as “the Railroad Assets.”<sup>2</sup>

The transaction is scheduled to take place in two stages, pursuant to two separate closings later than the December 24, 2009 effective date of the exemption. One closing

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<sup>1</sup> CSXT previously sold the track and material, and leased the underlying real estate, on the Watuppa Branch between mileposts QND 0.08 and QND 6.0 to the Bay Colony Railroad Corporation (BCLR). See Bay Colony Railroad Corporation—Acquisition and Operation Exemption—CSX Transportation, Inc., as Operator for New York Central Lines, LLC, STB Finance Docket No. 34446 (STB served Jan. 16, 2004). CSXT states that, in this transaction, it will convey the full scope of its ownership interest in the Watuppa Branch to MassDOT, subject to BCLR’s rights and interests and CSXT’s retained easement over the first 0.08 miles of the branch. Pursuant to an agreement between CSXT and MassDOT, BCLR will continue to provide common carrier service over the 5.92 miles of the Watuppa Branch west of milepost QND 0.08, and MassDOT will acquire only the real estate underlying this section of the branch. Because of BCLR’s interest in 5.92 miles of the Watuppa Branch, those 5.92 miles have been excluded here from the mileage total for the New Bedford Secondary.

<sup>2</sup> In the transaction, CSXT states that it will not transfer to MassDOT the right or obligation to conduct common carrier freight operations. According to CSXT, pursuant to its retained easements, it will have the exclusive right and ability to provide rail freight service on the Railroad Assets.

is scheduled to take place on May 14, 2010,<sup>3</sup> and the second is scheduled to take place after the first closing but on or before September 15, 2012.<sup>4</sup>

If the notice contains false or misleading information, the exemption is void ab initio.<sup>5</sup> Petitions to reopen the proceeding 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. Petitions for stay must be filed no later than December 17, 1009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35312, 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 Keith G. O'Brien, Baker & Miller, PLLC, 2401 Pennsylvania Avenue, N.W., Suite 300, Washington, DC 20037.

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<sup>3</sup> The first closing will encompass the sale of the Grand Junction Branch, the Boston Terminal Running Track Assets, the New Bedford Secondary (including CSXT's interests in the Watuppa Branch), and the Fall River Secondary. At the time that MassDOT and CSXT close on the sale of the New Bedford Secondary (including CSXT's interests in the Watuppa Branch) and the Fall River Secondary (collectively, the South Coast Assets), CSXT simultaneously will convey its retained permanent freight easement rights over the South Coast Assets (excluding the 5.92 miles of the Watuppa Branch, over which CSXT does not now possess such rights) to the Massachusetts Coastal Railroad, LLC (Mass Coastal), a Class III rail carrier, pursuant to a separate proceeding, STB Finance Docket No. 35314, Massachusetts Coastal Railroad, LLC—Acquisition—CSX Transportation, Inc. Upon consummation of the easement sale at issue in that proceeding, if approved, Mass Coastal will assume freight service operations on the South Coast Assets.

<sup>4</sup> The second closing will encompass the sale of the BML-West and BML-East assets.

<sup>5</sup> A motion to dismiss has been filed in this proceeding. The motion will be addressed in a subsequent Board decision.

Board decisions and notices are available on our website at  
“[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: December 7, 2009.

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