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SERVICE DATE – OCTOBER 5, 2007

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35083]

SMS Rail Lines of New York, LLC—Lease and Operation Exemption—Delaware and Hudson Railway Company, Inc. Line in Albany County, NY

SMS Rail Lines of New York, LLC (SMS), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway, and operate the Voorheesville Running Track, approximately 15 miles of rail line extending between milepost 11.00 in Voorheesville 12085 and a point 50 feet south of the centerline of the bridge at milepost 26.14 (or engineering station 6136+/-) in Delanson 12053, including the use of wye track and any track leading to the Northeast Industrial Park at milepost 12.1 and 12.29, in Albany County, NY.

SMS certifies that its projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier and will not exceed \$5 million.

The earliest this transaction may be consummated is October 19, 2007, 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 transaction.

Petitions for stay must be filed no later than October 12, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35083, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. Also, a copy of each pleading must be served on Fritz R. Kahn, Fritz R. Kahn, P.C., 1920 N Street, N.W., 8th floor, Washington, DC 20036.

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

Decided: September 28, 2007.

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

Vernon A. Williams

Secretary