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SERVICE DATE – DECEMBER 21, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34618]

East Penn Railway, Inc.–Modified Rail Certificate

On November 22, 2004, East Penn Railway, Inc. (East Penn), a Class III rail carrier, filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, Modified Certificate of Public Convenience and Necessity, to operate a portion of a rail line known as the Octoraro Branch (also referred to as Line 142), extending for approximately 27.51 miles between milepost 26.98 at Chadds Ford Junction, PA, and milepost 54.49 at the Pennsylvania/Maryland state line near Sylmar, MD.

The Octoraro Branch was previously owned by the Penn Central Transportation Company (Penn Central), and is currently owned by the Southeastern Pennsylvania Transportation Authority (SEPTA). The Octoraro Branch was not included in the final system plan at the time the Consolidated Rail Corporation was formed and, as such, was authorized to be abandoned without further regulatory approval pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. No. 94-210. SEPTA acquired the Octoraro Branch from the trustees of Penn Central after it was abandoned in 1976.

East Penn states that, until recently, the line was operated by the Morristown & Erie Railway, Inc. (M&E), under an interim operating agreement that terminated on November 19,

2004, and that it proposes to replace M&E as the interim operator. See *Morristown & Erie Railway, Inc.–Modified Rail Certificate*, STB Finance Docket No. 34369 (STB served July 24, 2003). On November 18, 2004, SEPTA and East Penn entered into an interim license agreement commencing on November 19, 2004. Under the operating agreement, East Penn will provide rail service over the Octoraro Branch from November 22, 2004, through approximately December 19, 2004, after which, East Penn plans to purchase the Octoraro Branch from SEPTA. The interim operating agreement will terminate at the transfer of ownership to East Penn.

East Penn will initially provide rail service on an as-needed basis, and will expand service as customers and traffic increases. East Penn states that the Octoraro Branch will connect with ISG Railways, Inc. (ISG), at Chadds Ford Junction, PA, in order to connect with Norfolk Southern Railway Company (NS) at Coatesville, PA. ISG's rail line also connects with the former Reading Railroad's Wilmington & Northern line at the Delaware/Pennsylvania state line, providing East Penn access to both NS and CSX Transportation, Inc., at Wilmington, DE.

The rail segment qualifies for a modified certificate of public convenience and necessity. See *Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions*, Finance Docket No. 28990F (ICC served July 16, 1981).

East Penn indicates that: (1) there are no subsidizers; (2) there are no preconditions for shippers to meet to receive rail service; and (3) it has obtained liability insurance coverage.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F Street, N.W., Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 50 F Street, N.W., Suite 7020, Washington, DC 20001.

Board decisions and notices are available on our website at
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Decided: December 13, 2004.

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

Vernon A. Williams

Secretary