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SERVICE DATE - OCTOBER 31, 2002

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34256]

Carolina Rail Service, LLC–Acquisition and Operation Exemption–North Carolina Ports

Railway Commission and North Carolina State Ports Authority

Carolina Rail Service, LLC (CRS), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire a permanent and exclusive easement over approximately 4.87 miles of rail line from the North Carolina Ports Railway Commission (PRC), and to operate over those lines pursuant to an operating agreement with the North Carolina State Ports Authority (SPA).¹ The subject rail line extends from the connection with the Norfolk Southern Railway Company (Atlantic & East Carolina Railway) at milepost 0.0 in Morehead City, NC, to milepost 0.87 at Gallants Channel near Morehead City, a distance of .87 miles in Carteret County, NC, serving the intermediate stations of Marsh Island and Radio Island, and includes all of the railroad tracks on the Port of Morehead City, whether denominated as spurs, side tracks, industrial tracks, or otherwise, together with all of PRC's

¹ In a related matter, SPA filed a notice of exemption in STB Finance Docket No. 34258, North Carolina State Port Authority–Acquisition Exemption–North Carolina Ports Railway Commission, wherein SPA seeks to acquire the right-of-way, trackage, and other rail assets of these rail lines. SPA also filed a motion to dismiss that notice on jurisdictional grounds.

yard and interchange tracks.² The subject lines include approximately 4 miles of intra-terminal track at the Morehead City terminal over which CRS currently operates a terminal switching railroad.

CRS states that the impetus for this transaction is new legislation enacted by the State of North Carolina legislature, SB 1115, ratified September 20, 2002. This legislation, among other things, requires the transfer of PRC's assets and liabilities, except its common carrier obligation, to SPA, and abolishes PRC.

On October 15, 2002, CRS filed a related notice of exemption in STB Finance Docket No. 34268, Carolina Rail Service, LLC–Acquisition and Operation Exemption–Beauford & Morehead Railway, Inc., wherein CRS seeks to acquire the Beauford & Morehead Railway, Inc.'s operating authority over the .87 miles of rail line listed above in Carteret County, NC.

CRS certifies that its projected revenues will not exceed those that would qualify it as a Class III rail carrier and that the annual revenues are not projected to exceed \$5 million.

CRS indicates that it expects to consummate the transaction by November 20, 2002, but not before the October 8, 2002 effective date of the exemption (7 days after the exemption was filed).

² Our predecessor, the Interstate Commerce Commission, exempted PRC from regulation under the Interstate Commerce Act, but determined that PRC had a residual common carrier obligation over these lines. See North Carolina Ports Railway Commission–Petition for Declaratory Order or Prospective Abandonment Exemption, Finance Docket No. 31248 (ICC served Sept. 30, 1988).

If the 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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34256, must be filed with the Surface Transportation Board, 1925 K Street NW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Karl Morell, Ball Janik LLP, 1455 F Street NW, Suite 225, Washington, DC 20005.

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

Decided: October 24, 2002.

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

Vernon A. Williams

Secretary