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SERVICE DATE - JUNE 25, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33757]

Delaware Transportation Group, Inc.--Corporate Family Exemption--Diamond State Port Railway Company, Inc., and Gettysburg Railway Company, Inc.

Delaware Transportation Group, Inc. (DTGI), a Class III rail common carrier, has filed a notice of exemption. The exempt transaction involves restructuring of the corporate family. John H. Marino owns a controlling interest in DTGI and Gettysburg Railway Company, Inc. (GRCI).<sup>1</sup> Through the transaction covered by this filing, the relationship between DTGI and GRCI would change from one between corporate siblings to one where DTGI would become the parent company of GRCI. DTGI would also control Diamond State Port Railway Company, Inc. (DSPR).

The transaction was scheduled to be consummated on or shortly after June 4, 1999.

This transaction is related to two simultaneously filed notices of exemption in STB Finance Docket No. 33755, Diamond State Port Railway, Inc.--Lease and Operation Exemption--Diamond State Corporation and F.A. Potts & Company International, Inc., wherein DSPR seeks to lease and operate certain rail lines of the Diamond State Port

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<sup>1</sup> See John H. Marino--Continuance in Control Exemption--Delaware Transportation Group, Inc., Gettysburg Railway Company, Inc., and Evansville Terminal Company, Inc., STB Finance Docket No. 33505 (STB served Nov. 21, 1997). As indicated in DTGI's notice, Mr. Marino never acquired any controlling interest in the Evansville Terminal Company, Inc.

Corporation and F.A. Potts & Company International, Inc., and STB Finance Docket No. 33756, Delaware Transportation Group, Inc.--Continuance in Control Exemption--Diamond State Port Railway Company, Inc., wherein DTGI seeks to continue in control of DSPR, upon its becoming a Class III rail carrier as well as to control one existing railroad (GRCI).<sup>2</sup>

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

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 notice contains false or misleading information, the exemption is void ab initio. 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.

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<sup>2</sup> See Gettysburg Railway Company, Inc.--Lease and Operation Exemption--Delaware Transportation Group, Inc., STB Finance Docket No. 33504 (STB served Nov. 21, 1997).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33757, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Robert A. Wimbish, Rea, Cross, & Auchincloss, 1707 L Street, N.W., Suite 570, Washington, DC 20036.

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

Decided: June 21, 1999.

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

Vernon A. Williams

Secretary