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SERVICE DATE - JULY 21, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33775]

Delaware and Hudson Railway Company, Inc.--Trackage Rights Exemption--Metro North
Commuter Railroad Company

Metro-North Commuter Railroad Company (Metro-North) has agreed to grant full service trackage rights to Delaware and Hudson Railway Company, Inc. (D&H), over Metro-North's rail line between CP7 near High Bridge, NY, at approximately milepost 6.6 in Bronx County, NY, and CP75 north of Poughkeepsie, NY, at approximately milepost 75.8 in Dutchess County, NY, a distance of 69.2 miles.¹ The scope of these rights and their terms were established by the Board in CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company--Control and Operating Leases/Agreements--Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388 et al., Decision Nos. 109 and 123 (STB served December 18, 1998 and May 20, 1999).

The transaction was scheduled to be consummated on or after July 6, 1999, the effective date of the exemption (7 days after the exemption was filed).

The purpose of the trackage rights is to enhance rail competition for movements of traffic on the east side of the Hudson River.

¹ A redacted version of the trackage rights agreement between Metro-North and D&H was filed with the notice of exemption. The full version of the agreement, as required by CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for a protective order, which is being addressed in a separate decision.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.--Trackage Rights--BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.--Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33775, 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, one copy of each pleading must be served on Eric Von Salzen, Hogan & Hartson L.L.P., 555 Thirteenth Street, N.W., Washington, DC 20004-1109.

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

Decided: July 16, 1999.

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

Vernon A. Williams

Secretary