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SERVICE DATE - JUNE 25, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33756]

Delaware Transportation Group, Inc.--Continuance in Control Exemption--Diamond State Port Railway Company, Inc.

Delaware Transportation Group, Inc. (DTGI), has filed a notice of exemption to continue in control of Diamond State Port Railway Company, Inc. (DSPR), upon DSPR's becoming a Class III railroad.

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

This transaction is related to two simultaneously filed verified 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 Diamond State Port Corporation and F.A. Potts & Company International, Inc., and STB Finance Docket No. 33757, Delaware Transportation Group, Inc.--Corporate Family Exemption--Diamond State Port Railway Company, Inc., and Gettysburg Railway Company, Inc., wherein DTGI will become the parent company for its affiliates Gettysburg Railway Company, Inc., (GRCI) and DSPR.

In addition to its control of DSPR, DTGI will control one previously existing Class III railroad: GRCI, operating in the State of Pennsylvania.<sup>1</sup>

DTGI states that: (i) the railroads will not connect with each other or any railroad in their corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

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 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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33756, must be filed with the Surface Transportation Board, Office of the Secretary,

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<sup>1</sup> See Gettysburg Railway Company, Inc.--Lease and Operate Exemption--Delaware Transportation Group, Inc., STB Finance Docket No. 33504 (STB served Nov. 21, 1997).

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.”

Decided: June 21, 1999.

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

Vernon A. Williams

Secretary