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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. 34257]

Wilmington Terminal Railroad, L.P.–Acquisition and Operation Exemption–North Carolina
Ports Railway Commission and North Carolina State Ports Authority

Wilmington Terminal Railroad, L.P. (WTR), 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 18 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 lines are located in Wilmington, New Hanover County, NC, and include the following: (1) the Front Street Spur, from the east line of Third Street at CSX Rail Valuation Station 91+37.3 and extending generally in a northerly direction, a distance of approximately 0.66 miles, to CSX Rail Valuation Station 56+39; (2) the New River Spur, from the CSX Rail Valuation Station 0+00, (also known as Rail Valuation Station 86+20) on the Front Street Spur at the west line of Second Street and extending generally in a southerly direction a distance of approximately 3.5 miles, to CSX Rail Valuation Station

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.

185+00; and (3) the line from the north entrance to the Port of Wilmington at Transit Road, near its intersection with Burnett Blvd., to the south entrance to the Port, at River Road near its intersection with Shipyard Blvd., through and including the classification yards and including all of the railroad tracks on the Port, whether denominated as spurs, side tracks, industrial tracks, or otherwise (but excluding crane rails).² WTR currently operates the subject lines.

WTR 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.

WTR 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.

WTR 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. 34257, 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 Donald G. Avery, Slover & Loftus, 1224 Seventeenth Street NW, Washington, DC 20036.

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