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SERVICE DATE – LATE RELEASE JULY 7, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33901

HI TECH TRANS, LLC– OPERATION EXEMPTION– OVER LINES OWNED BY
CANADIAN PACIFIC RAILWAY AND CONNECTING CARRIERS

Date: July 7, 2000

By notice filed on July 3, 2000, Hi Tech Trans, LLC (HTT), a noncarrier, has invoked the class exemption of 49 CFR 1150.32 in order to commence common carrier rail service from the Oak Island Yard in Newark, NJ, to points in New York and Ohio.¹ The operation will involve about 641 route miles. HTT will enter in the future into lease or trackage rights agreements with the Canadian Pacific Railway and its affiliates and will arrange connections with the Finger Lakes Railroad, Norfolk Southern Railway Company, and CSX Corporation. HTT certifies that its projected revenues will not exceed those that would qualify it as a Class III railroad.

By petition filed on July 6, 2000, Samuel J. Nasca, on behalf of the United Transportation Union – New York Legislative Board (UTU-NY), requests that we stay the exemption pending action on a forthcoming petition to revoke the exemption. HTT replied.

UTU-NY's petition for stay will be denied. The standards governing the disposition of a petition for stay are that there is a strong likelihood that the movant will prevail on the merits; that the movant will suffer irreparable harm in the absence of a stay; that other interested parties will not be substantially harmed; and that the public interest supports the grant of the stay. Hilton v. Braunskill, 481 U.S. 770, 776 (1987); Washington Metropolitan Area Transit Commission V. Holiday Tours, Inc., 559 F. 2d 841, 843 (D. C. Cir. 1977).

UTU-NY has failed to show that staying the notice is necessary to prevent the petitioners from suffering immediate and irreparable harm. HTT's notice states that operations will not commence until it reaches lease or trackage rights agreements with other railroads. We will have jurisdiction over such future agreements. HTT states that it does not expect that these agreements will be finalized until August 1, 2000, and says that it does not expect operations to begin before January 1, 2001. This will afford the Board time to consider UTU-NY's petition to revoke before

¹ Specifically, Irwin, NY, Buffalo, NY, Niagara, NY, Lowellville, OH, and or Canton, OH. The route has not been firmly established, for HTT asserts in paragraph 3 of its Notice that it may be changed in the future "to afford the most efficient service."

any operations commence pursuant to the notice.

It is ordered:

1. UTU-NY's petition for stay is denied.
2. This decision is effective on its date of service.

By the Board, Linda J. Morgan, Chairman.

Vernon A. Williams
Secretary