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SERVICE DATE – NOVEMBER 5, 2014

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35858]

C&NC Railroad, LLC—Lease Exemption Containing Interchange Commitment—  
Norfolk Southern Railway Company

C&NC Railroad, LLC (C&NC), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to amend its agreement to lease from Norfolk Southern Railway Company (NSR) and operate 21 miles of rail line from (a) milepost CB5.4 at Beesons, Ind., to milepost 25.30 at New Castle, Ind., and (b) milepost R0.1 to milepost R1.16 at New Castle.<sup>1</sup>

C&NC has leased and operated the lines since 1997.<sup>2</sup> The original lease agreement, dated December 18, 1997, by its terms, expired on December 31, 2009, and C&NC and NSR agreed to continue operations under the terms of the 1997 agreement pending renegotiation of a new lease. On March 11, 2011, the parties executed a new lease, which, by its terms, expires on March 11, 2021, and contains a lease provision enabling C&NC to reduce its lease payments by receiving a credit for each car

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<sup>1</sup> C&NC has filed the new lease agreement under seal pursuant to 49 C.F.R. § 1150.43(h)(1)(ii).

<sup>2</sup> See C&NC R.R.—Lease and Operation Exemption—Lines of the Norfolk and W. Ry. and Ind. Hi Rail, FD 33475 (STB served Oct. 31, 1997).

interchanged with NSR. On June 17, 2011, C&NC filed a verified notice of exemption to renew its lease arrangement, which request was granted by decision served July 1, 2011.<sup>3</sup>

As required at 49 C.F.R. § 1150.43(h), C&NC has disclosed in this notice that the parties have recently amended their lease agreement to add a second interchange commitment as well as provisions reducing C&NC's lease payments. According to C&NC, it has encountered traffic reductions that have decreased the expected opportunity to reduce the rental obligations through the operation of the lease credits. In return for reduced rental payments, C&NC has agreed to a further interchange commitment.

C&NC has certified that its projected annual revenues as a result of the proposed transaction will not exceed those that would make it a Class III rail carrier and further certifies that its projected annual revenues would not exceed \$5 million.

C&NC states that it intends to consummate the transaction on or after November 19, 2014, the effective date of the exemption (30 days after the exemption was filed).

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 effectiveness of the exemption. Petitions for stay must be filed no later than November 12, 2014 (at least 7 days before the exemption becomes effective).

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<sup>3</sup> See C&NC R.R.—Lease Renewal Exemption—Norfolk Southern Ry., FD 35529 (STB served July 1, 2011).

An original and ten copies of all pleadings, referring to Docket No. FD 35858, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Richard R. Wilson, Esq., 518 N. Center Street, Ste. 1, Ebensburg, PA 15931.

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

Decided: October 31, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.