RICHARD R. WILSON, P.C.
Attorney at Law
A Professional Corporation
518 N. Center Street, Ste. 1
Ebensburg, PA 15931

(814) 419-8152
888-454-3817 (Toll Free)
(814) 419-8156 FAX
rwilson@rrwilson.net – Email
www.rrwilsonesq.com - Website

851 Twelfth Street
Oakmont, PA 15139

Of Counsel to:
Vuono & Gray LLC
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800
(412) 471-4477 FAX

235337
ENTERED
Office of Proceedings
January 23, 2014
Part of
Public Record

January 7, 2014

Ms. Cynthia T. Brown, Chief
Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: Finance Docket No. 35797 – Union County Industrial Railroad Company – Operation Exemption – SEDA-COG Joint Rail Authority

Dear Ms. Brown:

In response to a inquiry from your staff received last week, enclosed please find the additional documentation which is submitted in connection with the above captioned Exemption Notice: (1) a copy of the December 13, 2006 Operating Agreement between SEDA-COG Joint Rail Authority and various operating railroads; (2) a copy of the STB Exemption Decision in Finance Docket No. 35343 exempting the acquisition of control of various operating companies including Union County Industrial Railroad Company by Susquehanna Union Railroad Company; and (3) an unexecuted addendum to the December 13, 2006 Operating Agreement which replaces the original addendum and includes the White Deer track from M.P. 173.05 to M.P. 177.67 comprising the White Deer track which will be operated by Union County Industrial Railroad Company. We believe the enclosed documents respond to your staff inquiry and provide appropriate documentation regarding the Union County Industrial Railroad Company operation exemption sought in Finance Docket No. 35797. The new addendum will be completed and executed on behalf of the parties on or after the effective date of the Board's Exemption Notice in this proceeding.

Should you have any further questions, please do not hesitate to contact me.

Very truly yours,

RICHARD R. WILSON, P.C.

Richard R. Wilson

Richard R. Wilson, Esq.
Attorney for Union County Industrial Railroad Co.

RRW/bab
Enclosure
xc: Keith O'Brien, Esq.

OPERATING AGREEMENT

THIS AGREEMENT is made and entered into on the 13th day of December, 2006, to become effective January 1, 2007, by and between SEDA-COG JOINT RAIL AUTHORITY, a Pennsylvania municipal authority created under the Municipality Authorities Act of 1945, referred to herein as the "Authority;"

a
n
d

LYCOMING VALLEY RAILROAD COMPANY(''LVRR''), NITTANY & BALD EAGLE RAILROAD COMPANY (''NBER''), NORTH SHORE RAILROAD COMPANY ("NSHR"), JUNIATA VALLEY RAILROAD COMPANY ("JVRR") and SHAMOKIN VALLEY RAILROAD COMPANY ("SVRR"), the foregoing parties all being Pennsylvania corporations and are individually referred to herein as an "Operator" and collectively referred to herein as the "Operators".

WITNESSETH

WHEREAS, the Authority is the owner of certain lines of railroad (the ''Railroad Premises'')described in Exhibit A as authorized by the Interstate Commerce Commission in Docket No. AB-167 (Sub Nos. 392N, 457N, 489N, 989, 779 and 485N)), and STB Finance Docket Nos. 33010 and 33008; and

WHEREAS, The Operating Companies have been authorized to conduct and provide common carrier railroad operations and service on lines of railroad (the ''Railroad Premises'') described in Exhibit ''A'', in ICC Finance Docket Nos. 30536, 30543, 31378 and 31378 (Sub No. 1) and STB Finance Docket Nos. 33010 and 33008; and

01/21/14 10:45AM HP LASERJET FAX p.01

WHEREAS, the Authority has selected the Operating Companies to provide rail freight service and to maintain the Railroad Premises for the benefit of shippers and communities served by said lines of railroad;

NOW THEREFORE, the parties, intending to be legally bound, agree as follows:

Section 1. Definitions

''**Affiliate**'' means any entity engaged in providing railroad services to the Operators, owned, directly or indirectly, in whole or in part, by either: (i) any of the Operators; (ii) any of the directors, officers or employees of any of the Operators or their spouses or lineal descendants; (iii) any individual having greater than a 25% ownership interest in the equity of any of the Operators (a ''Principal''), or (iii) a Principal's spouse or lineal descendants.

''**Authority Standards**'' means the maintenance standards set forth in Exhibit B, ''Track Maintenance Standards'', of this agreement.

''**Capital Improvements**'' mean asset additions, improvements, or replacements, that are not the result of ordinary maintenance activities to be performed by Operators under this Agreement. In the event of a dispute as to whether an improvement constitutes a Capital Improvement or Maintenance, the dispute shall be submitted to Arbitration pursuant to Section 29 of this Agreement.

"**Change in Control**" of the Operators shall be deemed to have occurred if and when any person or group of persons shall, subsequent to the date of this Operating Agreement, have acquired ownership of or the right to vote or to direct the voting of shares of any of the Operators representing fifty-one (51%) percent or more of the total voting interest of such Operator.

01/21/14 10:45AM HP LASERJET FAX p.02

''**Environmental Contamination**'' shall mean any contamination of the Railroad Premises arising from the deposit, acceptance, use, storage, transport, disposal or release of Hazardous Materials to, or under the Railroad Premises as a result of the receipt, transportation, delivery, use or storage of said materials by any of the Operating Companies.

''**Hazardous Materials**'' shall mean and include, without limitation, (1)''hazardous substances'' or ''toxic substances'', or ''pollutants or contaminants'' as those terms are defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; or the Transportation of Hazardous Materials Act, 49 U.S.C. §5102, et. seq., all as amended; (2) ''hazardous wastes'' as that term is defined by the Resource Conservation and Recovery act, 42 U.S.C. §6901, et seq. as amended; (3) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any other applicable federal, state or local law, regulation, code, ordinance, guideline, order, agreement or requirement imposing liability or standards of conduct concerning any hazardous, toxic or dangerous residual waste substance or material, or the exposure of persons thereto all as amended as of the date hereof; (4) any crude oil or any other petroleum product; (5) any radioactive material, including any source, special or nuclear or by-product material as defined in 42 U.S.C. §2100, et seq. as amended; (6) asbestos and asbestos containing materials in any form; or (7), compounds containing polychlorinated biphenyls.

''**Janotti Report**'' means the Track Inspection and Maintenance Right of Way Report to be prepared by Paul Janotti pursuant to Section 13(a) of this Agreement, and appended to this Agreement as Exhibit ''E.''.

''**Railroad Premises**'' means all property of every kind and description, real, personal, and mixed, including, but not limited

01/21/14 10:45AM HP LASERJET FAX p.03

to, the right of way, roadbed, tracks, bridges, track materials, poles, wire lines, signals, switches, and other facilities, buildings, and appurtenances comprising the premises described on Exhibit ''A'' and utilized in the provision of rail freight services pursuant to this agreement.

''**Rail Freight Service**'' means rail freight transportation service to be provided by the Operating Companies pursuant to the provisions of Title 49 of the United States Code. Part A, and under the terms of this Agreement.

''**STB**'' means the Surface Transportation Board of the United States Department of Transportation.

''**This Agreement**'' means this Operating Agreement.

''**Track Consultant**'' means a qualified consultant engaged by the Authority from time to time for the purpose of inspecting the Railroad Premises and providing periodic reports to the Authority regarding the condition thereof.

Section 2. Exclusive Use of Railroad Premises. The Authority shall provide to the Operating Companies access to and use of the Railroad Premises. The Operating Companies shall have the exclusive right to use the Railroad Premises only for the purpose of providing rail freight service thereon during the term of this Agreement, or any extension or renewal thereof, subject to the terms and conditions hereinafter contained. This Agreement shall not be construed as conveying any ownership interest to Operators. Any use for purposes other than rail freight service, including passenger service or rail excursions, shall require prior written permission of the Authority.

Section 3. Use by Other Carriers or Third Parties. In the event that Operators desire to allow any other person or entity access to or upon the Railroad Premises for any purpose other than the provision of rail freight services hereunder, the Operator shall secure prior written approval from the Authority which approval shall not be unreasonably withheld. Nothing herein shall

prohibit Operator from providing access to or upon the Railroad Premises by persons or entities as required to enable Operator to provide rail freight services as provided herein.

Section 4. Non-Transferability. This Agreement and the rights herein granted shall not be assigned, sold, leased, transferred, or in any other way alienated without prior written consent of the Authority. For purposes of this Section 4, an assignment shall include any transfer of any rights under this agreement, whether voluntary or involuntary or by operation of law, including any merger or consolidation of the Operator or any Change in Control of the Operator made without the Authority's prior written consent.

Section 5. Defects in Title. The rights contained herein as to the Railroad Premises are granted only insofar as the Authority's federal regulatory authorization and title permits. The Authority specifically disavows any implied or other warranty of title, nor shall the Authority be liable to Operators for any defects or encumbrances upon the title to the properties constituting the grant of exclusive use in Section 2. Should a third party assert a claim of title to the Railroad Premises, Authority and Operators shall cooperate with each other and take action as necessary to preserve the Railroad Premises for its intended use hereunder.

Section 6. Right to Inspect. The Authority, its agents or assigns, shall have the right, upon reasonable notice, to enter upon the properties constituting the Railroad Premises for the purpose of making reasonable inspections. The parties shall make reasonable arrangements to assure that the inspections can be performed safely, without undue interference or disruption of the Operators' railroad operations, in a manner consistent with the security of the railroad facilities. Operators shall, upon adequate advance notice, provide hi-rail equipment and a qualified driver to facilitate inspections exercised hereunder. The cost of such hi-rail equipment and driver shall be borne by Operators; provided, however that in the event the Authority requires such inspections more than two times during any calendar year, the Authority shall reimburse to Operators the cost incurred by Operators for such additional inspections.

01/21/14 10:45AM HP LASERJET FAX p.05

Section 7. Taxes and Utilities. Operators shall pay and discharge, on or before the last day on which payment may be made without penalty or interest, any and all taxes (including without limitation all real property taxes), assessments, charges for public utilities, excise, license and permit fees, assessments, sewer rentals and other governmental impositions and charges which shall or may during the term hereof be charged, assessed, imposed, become due and payable, or a lien upon, or arising in connection with the use by the Operators of the Railroad Premises for rail freight service. Operators shall have the right to contest any such taxes or other charges by appropriate legal proceedings, conducted at their own expense, providing that Operators shall furnish to Authority a surety bond or other security satisfactory to the Authority sufficient to cover the amount of the contested item or items when such item or items exceed $2,500.00, with interest and penalty for the period which such proceeding may be expected to take. Operators shall also pay any and all charges for water, gas, electricity, and other utility services provided to the Railroad Premises and used by the Operator in the provision of rail freight services hereunder.

Section 8. Existing Agreements. Operators' use of the Railroad Premises is subject to all of the terms and conditions contained in the following existing agreements, copies of which have been previously delivered to the Operator:

a) Acquisition Agreement dated July 25, 1984 between the Authority and the Consolidated Rail Corporation (''Conrail'') under which the Railroad Premises was acquired from Conrail (referred to herein as the July 25, 1984 Agreement);

b) Acquisition Agreement dated November 28, 1988, between the Authority and Conrail (referred to herein as the November 28, 1988 Agreement);

(c) Acquisition Agreement dated November 6, 1996 between the Authority, NBER and Conrail (referred to herein as the ''November 6, 1996 Agreement'');

(d) Trackage Rights Agreement dated August 15, 1996, between the Norfolk Southern (as successor to Conrail), NBER and the Authority (the ''Trackage Rights Agreement''); and

01/21/14 10:45AM HP LASERJET FAX p.06

(e) Settlement Agreement dated July 1,2005 between Norfolk Southern Railway(NSR), LVRR, NBER, NSHR, SVRR, and Union County Industrial Railroad(UCIR) and the Authority.

The Operators shall conduct their operations over said Railroad Premises in accordance with the terms and conditions of the aforesaid Agreements and all other agreements to which they are a party and the Authority is now or hereafter becomes a party or third party beneficiary. Additionally the Operators hereby jointly and severally assume all obligations of LVRR under the July 1, 2005 Settlement Agreement and all obligations of NBER under the November 6, 1996 Agreement and the Trackage Rights Agreements, and shall indemnify and hold the Authority harmless from all liability with respect thereto. Except as set forth herein, neither the Authority nor the Operators shall incur any obligation, undertake any action or assume any liability of the other party under the aforesaid Agreements.

Section 9. Term. The term of this Agreement shall commence January 1, 2007 and continue until June 30, 2017, unless terminated prior thereto in accordance with the provisions of this Agreement.

Section 10. Operating Fees.

(a) Operators shall be jointly and severally obligated to pay certain Operating Fees for the use of the Railroad Premises as set forth in Exhibit C, ''Operating Fees''.

(b) It is expressly understood that such Operating Fees shall be paid to the Authority without off-set for any charges incurred by Operators in the provision of rail freight services.

Section 11. Condition of Railroad Premises. Operators have inspected the Railroad Premises and accept the same "as is". The Authority makes no representation or warranty as to the physical condition of the Railroad Premises or the condition of the legal title. Operators shall return the Railroad Premises to the Authority upon the termination of this Agreement in the same condition as received or as improved. Notwithstanding the foregoing, the Authority shall make no claim or demand against the Operators regarding the condition of the Railroad Premises at the termination of this Agreement.

provided that the Operators have complied with their annual maintenance responsibilities as set forth in Section 13 of this Agreement.

Section 12. Provision of Additional Equipment and Facilities. Operators shall be responsible for providing all equipment and facilities that are reasonably necessary for the safe and adequate rail freight services on the Railroad Premises. Such equipment and facilities shall include, but shall not be limited to, locomotives, rolling stock as available, maintenance equipment, office space, and such other facilities and equipment as are reasonably necessary to provide rail freight service on the Railroad Premises as contemplated under this Agreement. Notwithstanding the above, Operators shall not be found in default if cars which must be obtained from a Class I Carrier are not available at that time.

Section 13. Maintenance

(a) Promptly following the execution of this Agreement, the parties shall engage, Mr. Paul Janotti, at Operators' sole expense, to prepare a comprehensive report (the "Janotti Report"), setting forth the existing condition of the Railroad Premises, which report shall be appended to this Agreement as Exhibit "E." Operators shall be solely responsible for maintaining the Railroad Premises in accordance with the Authority Standards or to the condition to which they have been improved. Notwithstanding the foregoing, to the extent the Janotti Report establishes that the present condition of any portion of the Railroad Premises fails to comply with the Authority Standards, Operators shall not be required to maintain such portion of the Railroad Premises to the Authority Standards, but shall instead maintain said portion of the Railroad Premises to condition as described in the Janotti Report, but not less than applicable FRA Standards. It is the intention of the parties that any portion of the Railroad Premises that do not presently comply with the Authority Standards shall be improved to a condition that complies with Authority Standards over a reasonable period of time, giving due consideration to the reasonable rail traffic and revenue projections for said portions of the Railroad Premises through the Annual Maintenance Program hereinafter described, and which

01/21/14 10:45AM HP LASERJET FAX p.08

shall thereafter be maintained to the Authority Standards. Without limiting the foregoing, the parties further agree as follows:

(1) On or before January 15 of each year, Operators shall prepare and submit to the Authority, a program (hereinafter referred to as the "Annual Maintenance Program") setting forth the maintenance items to be performed for the entire Railroad Premises during the remainder of the calendar year, and the anticipated cost of such items to ensure that the Railroad Premises are maintained in accordance with the Authority Standards.

(2) Operators will review the Annual Maintenance Program with the Authority's Staff and Track Consultant who shall review and amend the same to ensure that it complies with the Authority Standards not later than March 1 of said year.

(3) Operators shall at their own cost be responsible for maintaining the Railroad Premises in accordance with the Authority Standards as set forth in the Annual Maintenance Program approved by the Authority's Track Consultant.

(4) The Authority's Track Consultant shall inspect the Railroad Premises at least twice each calendar year to ensure that Operator is maintaining the same in accordance with the Annual Maintenance Program adopted by the parties for the Railroad Premises. Any deficiencies noted by the Track Consultant or by inspectors from the Federal Railroad Administration or the Pennsylvania Public Utilities Commission in routine inspections of the Railroad Premises shall be promptly remedied by the Operators at their sole cost and expense.

(5) Any disputes arising with respect to either the terms or requirements of the Annual Maintenance Program or Operators' compliance with the Annual Maintenance Program shall be submitted to Arbitration pursuant to Section 29 of this Agreement.

(b) The parties agree that any and all rails, ties or other items of track and signaling equipment removed and replaced by Operators in the performance of required maintenance (the ''Replaced Materials'') shall become the property of the Operators, regardless of whether such removed property is sold or retained by Operator as materials and

01/21/14 10:45AM HP LASERJET FAX p.09

supplies, provided the Operators purchased the material used in the replacement.

(c) It is expressly agreed that Operators shall be financially responsible for the repair of damage to any portion of the Railroad Premises caused by a landslide, geological disturbance, flood or significant natural catastrophe in an amount not to exceed $25,000 per occurrence. In the event of an uninsured catastrophe resulting in damages to the Railroad Premises in excess of $25,000, the Authority shall have the right, but not the obligation to pay such excess amount required to repair the damages, and in the absence of such repair the provisions of Section 27 of this Agreement shall apply.

Section 14. Capital Improvements. Operators shall have the right, but not the obligation with the prior written approval of the Authority, to make, at their own expense, Capital Improvements for railroad purposes on the Railroad Premises during the term of this Agreement. In such voluntary capital improvements, Operators shall be required to pay the cost of removal of appurtenant structures, excluding track improvements, where required by the Authority. Where such Operator financed CapitalImprovements require or involve the replacement of an asset in place, the parties shall agree in writing in advance of installation of the replacement asset, who will have ownership of the assets to be removed from the Railroad Premises, and in the absence of such written agreement such assets will belong to the Authority. The Operators shall have no other obligations to finance or pay for any capital improvement to the Railroad Premises under the terms of this Agreement.

Section 15. Operators' Obligations. Operators agree that they will at all times during the continuance of this Agreement:

(a) Pay all charges in accordance with Sections 7 and 10 herein, at such time as the same are due and payable, which charges may be recovered by the Authority in the same manner as any charge due or in arrears.

(b) Operate rail freight service in accordance with all federal, state and local requirements and shall be responsible for obtaining all governmental approvals, authorizations, franchises, licenses and permits as may be prerequisite to the rendering of such service.

01/21/14 10:45AM HP LASERJET FAX p.10

(c) Observe and comply with any and all requirements of all constituted public authorities and with all federal, state and local statutes, ordinances, regulations and standards applicable to Operators or their use of the Railroad Premises.

(d) Maintain and operate at their own expense the Railroad Premises, including any buildings used or leased by Operators thereon, in good operating condition and repair in a manner consistent with sound, accepted engineering practices and maintain the track in accordance with the provisions of Section 13 of this Agreement. Such operations shall include, but not be limited to, the removal of all wrecks and derailments within thirty (30) days following any such occurrence, restoration of the derailment site to safe operating condition within thirty (30) days following such occurrence, and restoration of a derailment site to its original condition or better within ninety (90) days following the occurrence, subject to the provisions of Sections 13(c) and 27 of this Agreement.

(e) Operate rail freight service on lines of the Authority at such levels and at such frequency as reasonably acceptable to the Authority, subject to the following guidelines:

(1) Frequency of Service: The Operators shall provide rail freight service a minimum of twice a week. Nothing herein shall require the Operators to operate a scheduled train when there are no cars to be picked up from or delivered to shippers on the Railroad Premises. The failure to provide rail freight service for ten (10) days (exclusive of Saturdays, Sundays, and Holidays) after need for such rail freight service has been established, according to subsection (e)(2) hereof, shall constitute a breach of this agreement by the Operators.

(2) Shipments destined to and from stations on the Railroad Premises shall be handled in accordance with rail transportation contractors or delivered to consignee not later than the third day (exclusive of Saturdays, Sundays, and Legal Holidays) after arrival of the shipment in the yard serving the line with adequate billing information unless consignee notifies the supervisor in charge of the Operator's Rail Freight Service of the shipment's imminent arrival on the lines of the Operators, in

01/21/14 10:45AM HP LASERJET FAX p.11

which case the consignee can request a prompt placement date. The Operators shall exercise reasonable efforts to provide prompt empty car placement whenever the consignor notifies the Operators' supervisor three (3) days prior to the day on which the loaded car(s) shall be placed for loading, specifying the date for the placement of the empty car(s) for movement to the destination. However, nothing in this paragraph contemplates the Operators' providing better levels of rail freight service for certain customers with similar, but not identical, characteristics without collection of the applicable contract or appropriate published charges for such special rail freight service. Nothing in this paragraph precludes the Operators from providing more frequent rail freight service than that agreed upon in accordance with Section 15(e)(1).

(3) Quality of Service: The Operators shall provide safe and efficient rail freight service, including, but not limited to: (1) delivery and access to empty rail cars subject to car availability; (2) prompt handling of loaded rail cars with reasonable dispatch to and from points of interchange with other carriers; and (3) maintenance and repairs, snow removal, and clearing of train derailments and wrecks on the Railroad Premises, all as specified in this agreement. The Operators shall provide the name, address, telephone number, and point of contact of the shippers that are served on the Railroad Premises to the Authority within thirty (30) days from the date of execution of this agreement. The Authority will survey shippers during the term of this agreement to determine quality of rail freight service provided by the Operators, provided, however, that such survey shall not seek information concerning confidential rail transportation contracts, rates or price negotiations of rail freight service by any of the Operators or their connecting carriers, and the survey results will be provided to Operators.

(4) Control: The Operators shall have exclusive control of the operation, performance and pricing of the rail freight service, including but not limited to the dispatching and control of trains, assignment of available cars in good order, assignment

of crews and other employees, and assignment and use of power. The Operators shall use their best efforts to provide such rail freight service in an efficient manner.

(5)Operating Rules and Regulations: The Operators shall have the exclusive authority to promulgate and adopt rules, regulations and tariffs that are consistent with regulations issued by the STB and FRA and the provisions of Title 49 United States Code, Subtitle IV, Part A.

(f) Notify the Authority in writing within ten (10) days of any management and supervisory personnel changes. In the event that such employee is no longer part of the Operators' organization, the Operator shall advise the Authority of the action taken to ensure that it will be able to provide rail freight services under this Agreement.

(g) The individual Operator authorized by the STB to provide rail freight services on the rail line on which a claim arises shall fully indemnify, defend and hold harmless the Authority, its members, officers, agents, employees, successors and assigns, from and against all claims and actions up to the Authority's legal obligation to pay any such claims, including the Authority's reasonable attorney's fees and litigation costs and expenses, based upon or arising out of (i) Operator's breach of its obligations under this Agreement; or (ii) damage or injuries to persons or property (including the Railroad Premises) caused by the negligence of the involved individual Operator, or its agents, employees, guests, invitees, contractors, suppliers of materials, or furnishers of service in the use and occupancy of the Railroad Premises by the Operator.

(h) The individual Operator authorized by the STB to provide rail freight services on the rail line on which a claim arises shall be liable, defend and indemnify the Authority for any damages, harm or injury to the Railroad Premises caused by the negligence of the involved individual Operator, its agents or employees.

(i) All of the Operators shall be jointly and severally responsible to the Authority and defend, indemnify and hold the Authority, its directors, officers and agents harmless from and against any liability arising out of any environmental protection or pollution law, or any liability in tort (strict liability or otherwise), up to the

01/21/14 10:45AM HP LASERJET FAX p.13

Authority's legal obligation to pay any such liability, arising out of Environmental Contamination of the Railroad Premises caused by any of the Operators' rail operations or their use of the Railroad Premises.

(j) Maintain a policy or policies of liability insurance to insure itself against liability for injury or damage to persons and property, which policies will be in the minimum amounts set forth below:

	Type	Limits
(1)	Comprehensive General Liability	
	Insuring against claims for (a) Bodily Injury and (b) Property Damage	For all claims $5,000,000 per Occurrence, $25,000 deductible
(2)	Federal Employer's Liability Act	Covered by blanket policy noted in (1)
(3)	Cargo Legal Liability	Covered by blanket policy noted in (1)
(4)	Foreign Rolling Stock	Covered by blanket policy noted in (1)
(5)	Automobile Liability	1,000,000 per occurrence; $1,000 deductible

(k) Cause the Authority to be named as an additional insured under each such policy (other than Employer's Liability) and furnish the Authority appropriate certificates of such insurance which shall specifically state that the insurance company shall furnish to the Authority at least thirty (30) days notice of any lapse or material changes in such insurance;

(l) Perform marketing and sales activities to promote increased rail traffic to and from the Railroad Premises.

(m) Annually, on the anniversary date of this agreement, provide Authority with the following information, which to the extent possible under applicable law, shall be maintained by the Authority in confidence:

1. Complete listing of names and addresses of all officers, directors and senior management of Operators.
2. Complete listing of names and addresses of all stockholders of Operators, including the total number of shares owned by each stockholder.

01/21/14 10:45AM HP LASERJET FAX p.14

(n) Operators hereby covenant and agree to provide one hundred twenty (120) days written notice of any proposed Change in Control of Operators. The Authority shall have the right to approve or disapprove any such Change in Control and shall have the right to terminate this Agreement if any actual Change in Control occurs without Authority approval.

(o) Operators agree to provide and maintain combined unencumbered minimum working capital of fifty thousand dollars ($50,000.00).

(p) Operators agree to provide and maintain a reserve on deposit with the Authority, of twenty five thousand dollars ($25,000.00) at all times in addition to the minimum working capital requirements of this section for the purpose of payment of liability claims not otherwise covered by insurance. The said reserve shall be held by the Authority in an interest bearing account, with all interest accruing to the benefit of the Operator. This amount may be reduced or waived upon written approval of the Authority. The Operators shall make an equal deposit to match any withdrawal from this reserve for payment of claims within thirty (30) days thereafter.

(q) Peacefully deliver up and surrender possession of the Railroad Premises to the Authority at the expiration or upon earlier termination of this Agreement.

(r) Upon expiration of this Agreement or termination of this Agreement for any reason, the Operators shall immediately file for discontinuance with the Surface Transportation Board and assist the Authority in making the transition to a new operator. Notwithstanding the foregoing, in the event the Operators contest any asserted termination by reason of default and demand arbitration in accordance with Section 29 of this Agreement, Operators shall not be required to file for discontinuance of rail freight service until such date as such arbitration has been concluded and a determination has been made that Operators have breached the Agreement.

Section 16. **Restrictions.** Operators further agree that they will not:

(a) Occupy the Railroad Premises in any way or for any purposes unrelated to the provision of rail services on the Railroad Premises;

(b) Assign, mortgage, pledge or encumber the Railroad Premises or any part thereof or assign its obligations under this Agreement without the prior written consent of the Authority;

(c) Permit to be created or knowingly allow to exist upon the Railroad Premises any use or storage (except as necessary for the provision of rail freight services), or the disposal or release of Hazardous Materials, public or private, and Operators shall indemnify and hold harmless the authority and all of its directors, officers, agents and employees, in accordance with Section 15(i). Operators shall comply with all applicable federal, state and local laws, rules and regulations pertaining to air, water, noise and wastes and other pollution or relating to the storage, transport, disposal or release of Hazardous Materials, and shall bear the expense of any and all pollution control structures, devises or equipment which are required during the term of this Agreement under applicable laws, ordinances or governmental regulations as a result of Operator's provision of rail freight services. Operators shall exercise due care in their use and operation of the Railroad Premises, including taking precautions against reasonably foreseeable acts or omissions or the release of Hazardous Materials into the environment.

(d) Initiate or conduct rail passenger service over the Railroad Premises without the prior written approval of the Authority in accordance with Section 2;

(e) Except upon the Authority's prior written consent, neither the Operator(s) nor any Affiliate of the Operator(s) shall continue or enter into negotiations or enter into any agreements with any other railroad, including specifically Class I railroads, which in the reasonable opinion of the Authority affects the interests of the Authority, including: (i) the competitive access of the shippers within the constituent counties of the Authority to Class I rail services; (ii) the proper maintenance of the Railroad Premises; or (iii) the carrying out of the Authority's stated mission to preserve rail service in

P.16

HP LASERJET FAX

Central Pennsylvania and to further economic development through the retention, improvement and expansion of the infrastructure.

(f) Enter into a contract or agreement with an Affiliate of the Operators having a value in excess of $5,000, except upon the Authority's prior written consent, which consent will not be withheld if the transaction is determined by the Authority to be commercially reasonable.

(g) Except upon the Authority's prior written consent, enter into negotiations or agreements with any third parties for the lease or acquisition of rail lines located within the counties comprising the membership of the SEDA-Council of Governments or which directly connect with the Railroad Premises, it being the parties' express understanding that the Authority shall have the first right and option to acquire any such lines.

Section 17. Relationship between Operators and the Authority. Authority is a Pennsylvania municipal authority, and a body corporate and politic. Each of the Operators is a private corporation, an independent contractor, and none of the Operators are agents of the Authority. Except as set forth in Section 15(g) and (h), each of the Operators shall be jointly and severally liable to the Authority for any breach of this Agreement by any single Operator. Whenever Operators require written approval from the Authority, the signature of the Executive Director will suffice to validate such written approval. Whenever the Authority requires written approval from the Operators, the signature of the President of any single Operator will suffice to validate the written approval of each Operator. Operators and the Authority shall meet at least quarterly to review and discuss revenues, costs, operations, maintenance, marketing, and service. Operators shall inform the Authority and affected shippers of any major action or event related to the Railroad Premises that may affect rail freight service to those shippers as soon as Operators know such action or event. The Authority will inform Operators of any problems or concerns related to the rail freight service.

Section 18. Annual Reporting.

HP LASERJET FAX p.17

(a) Annual Report: The Operators shall prepare an annual report including, at a minimum, 1) the number of revenue producing carloads, 2) the number of reportable accidents as defined by FRA and their location, 3) reportable derailments as defined by FRA and their location, 4) Financial statements audited by an accounting firm acceptable to the Authority, 5) construction and maintenance expenses, 6) FRA and/or Authority inspection reports with corrective action taken or planned, and 7) a report of other occurrences having a significant impact on the condition of the Railroad Premises or the rail traffic handled thereon. An annual report shall cover the Operator's fiscal years or parts of fiscal years from the date of execution of this agreement to its termination. Annual reports shall be submitted to the Authority within three (3) months after the close of each such fiscal year, provided Operators' tax filings are completed by that time and shall be submitted to the Authority subsequent to a deferred tax filing upon completion by Operators' accountant, in which instance a preliminary Report shall be submitted within three (3) months after the close of the Operator's fiscal year.

(b) Audit and Inspection: Upon reasonable notice, the Operator will allow the auditors of the Authority to audit all the records of the Operators that were used to determine the revenues and costs related to the annual report. All such records shall be kept for a period of four (4) years after the issuance of the related annual report. The Operators will also allow inspection of the Railroad Premises and the equipment used thereon by the authorized representatives of the Authority upon reasonable notice.

Section 19. Performance Audit. The Authority may at its expense, from time to time, conduct a performance audit of marketing, operating, maintenance, and other obligations and functions of the Operators.

Section 20. Rents from Non-Operating Properties. The Authority is solely responsible for entering into, extending, or terminating all non-operating leases, licenses, and easements on all Authority property, including the Railroad Premises. The Authority shall receive any and all rents arising from any leases, private crossings, licenses and occupations or renewals thereof

01/21/14 10:45AM HP LASERJET FAX p.18

on any portion of the Railroad Premises, including, but not limited to, rents, license fees, crossing fees, easements, and other revenues paid by any party occupying a portion of the Railroad Premises with poles and wire, and rentals and fees for signboards, platform locations, driveways, storage facilities, side tracks, pipe lines, water rights, fiber optics, land rents, building rents and water tank rents, among other things. The Authority shall collect such amounts as they become due. The Authority shall determine the properties classified as ''Non-Operating Properties,'' except that any such designation shall not interfere with Operators' ability to fulfill its obligations under this Agreement. It is expressly agreed that the Authority shall have the unilateral right to withdraw such portions of the Railroad Premises from the provisions of this Operating Agreement as it reasonably determines are not required to enable Operators to fulfill their common carrier obligations and to provide Rail Freight Services to customers under this Agreement.

Section 21. Public Crossings. During the term of this Agreement or any renewal thereof, Operators shall assume and shall indemnify the Authority for and against all obligations with respect to all public crossings by public highways, bridges, or utilities, including such obligations as presently exist or which may be hereinafter imposed under the provisions of Pennsylvania Public Utility Code and any orders issued thereunder with respect to the Railroad Premises except those ''non-operating properties" for which the Authority has sole responsibility under Section 20 of this Agreement.

Section 22. Condemnation of Railroad Premises. If the Authority's ownership interest in the Railroad Premises, or any portion thereof, are condemned or taken by any competent authority for public use, the award for payment of damages resulting therefrom, or any amount paid in settlement thereof, shall be paid to and retained by the Authority, except as hereinafter provided. If the Operators' occupancy interest in the Railroad Premises or any portion thereof are condemned or taken by any competent authority for public use, the award or payment of damage resulting or any amount paid in settlement thereof shall be paid to and retained by the Operators. If the entire Railroad Premises are so taken or such substantial part thereof as shall materially impair or interfere with Operators' proper use and enjoyment thereof, this Agreement shall automatically terminate as of the date of the taking. If only

HP LASERJET FAX
p.19

such portion of the Railroad Premises is taken as shall not materially impair or interfere with the Operator's proper use and enjoyment thereof, this Agreement shall continue in full force and effect, and all proceeds of the condemnation award or payment to either party shall first be used as may be required for the restoration of the Railroad Premises in such a manner as will enable the continuing operation thereof for rail freight services hereunder.

Section 23. Breach

(a) Any one or more of the following events shall constitute an event of default (an "Event of Default"):

(i) Operators' failure to pay any Operating Fees to the Authority hereunder within fifteen (15) days of the date due and payable hereunder;

(ii) Operators' failure to observe and perform any of the terms, covenants, conditions, limitation or commitments under this Agreement on Operators' part to be observed or performed (other than payment of Operating Fees) for a period of thirty (30) days following written notice thereof ;

(iii) Any of the Operators shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangements, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy or insolvency statute or law (collectively in this Article "insolvency laws"), or shall seek, consent to or acquiesce in the appointment of any bankruptcy or insolvency trustee, receiver or liquidator of any such Operators or of all or any substantial part of their properties;

(iv) The commencement of any action, case or proceeding ("proceeding") against any of the Operators seeking (i) any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any insolvency laws, or (ii) the appointment, without the consent or acquiescence of such Operator, of any trustee, receiver or liquidator of Operator or of all or substantially all of its properties, and the proceedings shall continue un-dismissed for a period of sixty (60) days;

01/21/14 10:45AM HP LASERJET FAX p.20

(v) Operators shall discontinue service or vacate any portion of the Railroad Premises without the Authority's prior written consent;

(vi) If a federal or state tax Lien is filed against any of the Operators affecting the Railroad Premises and remains undischarged within sixty (60) days after its filing;

(vii) If a final judgment for the payment of money in excess of $25,000 shall be rendered against any of the Operators and such judgment shall remain undischarged for a period of sixty (60) days during which execution shall not be effectively stayed;

(viii) A Change in Control of any of the Operators shall occur without the Authority's prior written consent

(b) Notwithstanding the provisions of Section 23(a), if any default other than a default in payment is curable, it may be cured (and no Event of Default will deemed to have occurred) if Operators, after receiving written notice from the Authority demanding cure of such default: (1) either cure the default within thirty (30) days; or (2) if the cure requires more than thirty (30) days, immediately initiate to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical;

(c) In the event any of the Operators commits an Event of Default as provided in Section 23(a), which Event of Default is not timely cured as provided in Section 23(b), in addition to its other rights and remedies available at law or equity, the Authority shall have the immediate right upon written notice to the Operators to terminate this Agreement. In the event of such termination, the Authority will use its best efforts to engage a replacement operator to provide such service. In the event such replacement operator must be subsidized by the Authority, the Authority will bill the Operator for the subsidy amount and the Operator shall remit payment to the Authority in a timely manner for a period not to exceed one (1) year from the date of such termination. However, in the event no operator can be engaged for such purpose, and in the event the Railroad Premises are abandoned by the Authority by reason of such breach, or otherwise terminated by legal action, the Operator shall cooperate fully with the Authority in settling any and all claims sought by any party as a result.

p.21
01/21/14 10:45AM HP LASERJET FAX

Section 24. Notice. Notice provided for herein shall be sufficient if sent by certified mail postage prepaid, or commercial overnight delivery service requiring execution of a receipt indicating delivery, as follows:

To the Authority:

SEDA-COG JOINT RAIL AUTHORITY
201 Furnace Road
Lewisburg, PA. 17837

To Operators:

North Shore Railroad Company
356 Priestley Avenue
Northumberland, PA 17857

or to such other address as either party may, from time to time designate to the other in writing. It is expressly agreed that notice to any of the Operators provided to the above addressed shall constitute notice to all Operators.

Section 25. Regulatory Jurisdiction.

(a) This Agreement is subject to the orders, rules and regulations of appropriate regulatory authorities, including the STB and the Pennsylvania Public Utility Commission, having jurisdiction over Operators and the Authority.

(b) In the event that either party determines that it is necessary to participate in an administrative or judicial proceeding or to take a position before any governmental body which may affect the interests of the other or the rail freight services provided hereunder, each party shall provide the other party reasonable advance notice of its intent to do so and the nature of the interest or position it will assert. The parties shall use their best efforts to communicate and coordinate their participation and/or positions.

Section 26. Access to Records.

(a) Operator agrees to maintain sufficient records and reports to permit the Authority to fully verify statements of traffic, revenue, and expenditures furnished to the Authority by Operator. The

Authority shall maintain the information contained in such records and reports in confidence to the extent possible under applicable law.

(b) The Authority shall have full access to these records and reports during normal business hours and the right to make copies at the Operators' office upon 48 hours written notice, duly given to Operator.

Section 27. Force Majeure. None of the parties hereto shall be held responsible or liable, either directly or indirectly, or be deemed in default or breach of this Agreement for any loss, damage, injury, delay, failure or inability to meet all or any portion of its commitments hereunder caused by or arising from any cause which is unavoidable or beyond its reasonable control, including without limitation, war, hostilities, invasion, insurrection, riot, terrorist activities the order of any competent civil or military government, explosion, fire, strikes, lockouts, AAR service orders, actions of other carriers that materially affects Operator's operations, labor disputes, perils of water including floods, ice, breakdowns, Acts of God including storms or other adverse weather conditions, washouts, wrecks or derailments that cannot be removed within thirty (30) days pursuant to Section 15(d) or other causes of a similar or dissimilar nature which wholly or partially prevent the Parties or either of them from carrying out the terms of this Agreement; provided that the Party experiencing such force majeure or partial force majeure promptly gives to the other Party written notice that the disabling effect of such force majeure shall be eliminated as soon as and to the extent reasonably possible and that each Party shall have the right to determine and settle any strike, lockout and labor dispute in which that Party may be involved in its sole discretion. In the event that one Party's performance is suspended in whole or in part by force majeure, the other Party's obligation to perform hereunder shall be suspended or commensurately reduced for the duration of the force majeure and for such additional reasonable period as may be required because of the existence of the force majeure. In the event that one party's performance hereunder is suspended by force majeure and cannot be resumed within a reasonable period of time, either party shall have the right to seek STB authorization to abandon and/or seek a discontinuance of service with respect to that portion of the Rail Premises adversely affected by the

HP LASERJET FAX 10:45AM p.23

force majeur condition and upon receipt of such authorization to terminate this Agreement with respect thereto.

Section 28. Labor Conditions. If during the term of this Agreement or subsequent renewal thereof, any labor protective conditions should be imposed as a result of an STB order or pursuant to the Railway Labor Act, Operator agrees to fully indemnify the Authority from the costs of said labor protective conditions.

Section 29. Arbitration. Any claim or controversy arising under the provisions of this Agreement, or an asserted breach thereof, which cannot be resolved by the parties, shall be settled by arbitration in Lewisburg, Pennsylvania, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration proceeding shall be held in Lewisburg, Pennsylvania. The decision of the arbitrator(s) shall be final and conclusive upon the parties hereto and shall be enforceable in a court of competent jurisdiction. Each party to the arbitration shall pay the compensation costs, fees and expenses of its own witnesses, exhibits and counsel. The compensation costs of the arbitrator(s), if any, shall be borne equally by the parties hereto. The arbitrator(s) shall not have the power to award consequential or punitive damages or to determine violations of criminal law or antitrust law. The arbitrators shall have the right to refer any rail regulatory issues to the STB for an advisory opinion.

Section 30. Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. However, this provision shall not be construed to confer on Operators any right or authority to assign all or any part of this Agreement without the Authority's prior consent. It is expressly agreed that the Authority shall have the right to assign its interest in this Agreement to a lending institution for purposes of financial security.

Section 31. Entire Agreement. This Agreement, together with the Agreements described in Section 8, contains the entire understanding of the parties with respect to its subject matter. It is expressly understood that the within Agreement shall supersede and replace the existing Operating Agreements

01/21/14 10:45AM HP LASERJET FAX p.24

between the Authority and the Operators, which shall each terminate effective midnight, December 31, 2006. No oral statement or prior written matter shall have any force or effect. The parties hereby acknowledge that they are not relying on any representations or agreements other than those contained in this Agreement and the Agreements described in Section 8. This Agreement shall not be modified except by a written instrument subscribed by both parties hereto.

Section 32. Severability. If any term, covenant, condition or provision (or part thereof) of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision (or remainder thereof) to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 33. Nondiscrimination. The Operator shall comply with the nondiscrimination clause attached hereto and incorporated herein as Exhibit D.

Section 34. Applicable Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties hereto have caused this Operating Agreement to be executed by themselves or by their respective duly authorized officers as of the date and year first above written.

ATTEST:

By: Donald R Kramer

SEDA-COG JOINT RAIL AUTHORITY

By: Jerry S Walls

ATTEST:

By: Miriam R Roley
Sec-Treas.

OPERATORS:

LYCOMING VALLEY RAILROAD COMPANY

By: Paul N Roby, CEO

01/21/14 10:45AM HP LASERJET FAX p.25

ADDENDUM TO OPERATING AGREEMENT

THIS ADDENDUM is made and entered into on the ____ day of _____, 201___, by and between **SEDA-COG JOINT RAIL AUTHORITY**, a Pennsylvania municipal authority created under the Municipality Authorities Act of 1945, referred to herein as the "Authority;"

a

n

d

LYCOMING VALLEY RAILROAD COMPANY(''LVRR''), **NITTANY & BALD EAGLE RAILROAD COMPANY** (''NBER''), **NORTH SHORE RAILROAD COMPANY** ("NSHR"), **JUNIATA VALLEY RAILROAD COMPANY** ("JVRR"), **SHAMOKIN VALLEY RAILROAD COMPANY** ("SVRR"), and **UNION COUNTY INDUSTRIAL RAILROAD COMPANY** (the foregoing parties all being Pennsylvania corporations and are individually referred to herein as an "Operator" and collectively referred to herein as the "Operators");

a

n

d

SUSQUEHANNA UNION RAILROAD COMPANY ("SURC"), being a Pennsylvania corporation and referred to herein as the "Holding Company."

WITNESSETH

WHEREAS, the Authority is the owner and lessee of various lines of railroad (the ''Railroad Premises'') more specifically described in **Exhibit A** attached to a certain Operating Agreement dated December 13, 2006 and effective January 1, 2007, between the Authority and the Operators, as amended (the ''Operating Agreement''); and

WHEREAS, the Operators are authorized to conduct and provide common carrier railroad operations on and over the Railroad Premises; and

WHEREAS, pursuant to the terms of the Operating Agreement, the Authority has engaged the Operators to provide rail freight service and to maintain the Railroad Premises for the benefit of shippers and communities served by said lines of railroad; and

WHEREAS, the parties desire by this Addendum to modify and amend the Operating Agreement to enlarge the Railroad Premises to include additional rail lines of the Authority;

WHEREAS, the parties also desire to add Union County Industrial Railroad Company (''UCIR'') as a party to the Operating Agreement, effective as of the date of this Addendum;

NOW THEREFORE, the parties, intending to be legally bound, agree as follows:

1. The existing Exhibit ''A'' of the Operating Agreement, which sets forth the lines of railroad owned by the Authority which comprise the Railroad Premises (as defined in the Operating Agreement), is hereby deleted in its entirety and replaced with the Exhibit ''A'' attached to this Addendum and incorporated herein. Accordingly, all references to the Railroad Premises in the Operating Agreement shall refer to the Railroad Premises as set forth on the Exhibit ''A'' attached to this Addendum.

2. UCIR is hereby added as an Operator to operate the portion of the Railroad Premises known as the White Deer Track and such other rail lines of the Authority as the Authority and UCIR shall mutually agree, subject to any necessary authorization from the Surface Transportation Board and other applicable government authorities. Accordingly, effective as of the date of this Addendum, UCIR shall be bound to perform all responsibilities and observe all obligations which an Operator is required to perform or observe under the Operating Agreement.

3. Except as amended herein, the Operating Agreement is hereby ratified and affirmed in its entirety.

IN WITNESS WHEREOF, the parties have executed this Addendum to the Operating Agreement on the day and year first above written.

ATTEST:

SEDA-COG JOINT RAIL AUTHORITY

By:_____
Michael J. Krentzman
Secretary

By:_____
Jerry S. Walls
Chairman

ATTEST:

OPERATORS:

LYCOMING VALLEY RAILROAD COMPANY

By:_____

By:_____

NITTANY & BALD EAGLE RAILROAD COMPANY

By:_____

By:_____

NORTH SHORE RAILROAD COMPANY

By: _____ By: _____

JUNIATA VALLEY RAILROAD COMPANY

By: _____ By: _____

SHAMOKIN VALLEY RAILROAD COMPANY

By: _____ By: _____

SUSQUEHANNA UNION RAILROAD COMPANY

By: _____ By: _____

UNION COUNTY INDUSTRIAL RAILROAD COMPANY

By: _____ By: _____

EXHIBIT "A" - DESCRIPTION OF RAILROAD PREMISES

The Railroad Premises shall include all of the property of every kind and description, real, personal, and mixed, including the right-of-way, roadbed, track, track materials, poles, wire lines, signals, and other facilities, buildings, and appurtenances for the following lines, except as otherwise defined or provided for in this Agreement. These Railroad Premises are more fully described in certain deeds from the Consolidated Rail Corporation to the Authority:

Nittany & Bald Eagle Railroad:

Nittany Main Line from M.P. 1.0W to M.P. 54.3 (Lock Haven to Tyrone)
Gray Yard adjacent to M.P. 222.2 to M.P. 223.2 (Norfolk Southern Pittsburgh line M.P. numbers)
Lock Haven Yard adjacent to M.P. 194.3 to M.P. 195.1 (Norfolk Southern Buffalo line M.P. numbers)
Pleasant Gap Industrial Track from M.P. 0.0 to M.P. 3.0
Bellefonte Branch from M.P. 30.8 to M.P. 42.5 (Milesburg to Lemont)
Bellefonte Sunnyside Yard M.P. 32.4 to M.P. 33.1
"Shop" Track from M.P. 0.0 to M.P. 1.0
All operating remnants of the Mill Hall Industrial Track (N&BE main line M.P. 51.9)
Mill Hall Industrial Track - starting at M.P. 13 (Draketown) and extending east 1.9 miles to end of track (Castanea)

North Shore Railroad:

North Shore Railroad from M.P. 213.45 to M.P. 176.97
Berwick Yard M.P. 178.7
BIDA Complex from NSHR M.P. 176 up the Hill Track to and including all track within the BIDA Complex

Shamokin Valley Railroad:

Shamokin Valley Main from M.P. 0.0 to M.P. 25.2
Carbon Run Branch from M.P. 0.0 to M.P. 1.5
SAIC Industrial Park Track from M.P. 0.0 to M.P. 1.0

Lycoming Valley Railroad:

Grumman Lead from M.P. 199 to M.P. 200 (formerly the Muncy Industrial Track)
Lycoming Secondary from M.P. 199.8 to M.P. 181.1
Newberry Yard M.P. 181.1 to M.P. 179.4
Avis branch from M.P. 179.4 to M.P. 166.0 at Avis
All operating remnants of the Williamsport Industrial Track
Antlers Running Track M.P. 179.4 to M.P. 178.7

Juniata Valley Railroad

Lewistown Yard M.P. 0.2
Maitland Industrial Track from M.P. 0.0 to M.P. 7.4
Burnham Branch from M.P. 0.0 to M.P. 4.0
MCIDC Track
West Park Track - Granville Township from the NS Pittsburgh Main north to and including all track within the MCIDC West Park

Union County Industrial Railroad

White Deer Track from M.P. 173.05 to M.P. 177.67

41007
EB

SERVICE DATE – JANUARY 11, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35343

SUSQUEHANNA UNION RAILROAD COMPANY—CONTROL EXEMPTION—NORTH SHORE RAILROAD COMPANY, NITTANY & BALD EAGLE RAILROAD COMPANY, SHAMOKIN VALLEY RAILROAD COMPANY, JUNIATA VALLEY RAILROAD COMPANY, LYCOMING VALLEY RAILROAD COMPANY, AND UNION COUNTY INDUSTRIAL RAILROAD COMPANY

Decided: January 6, 2011

Digest:[1] This decision permits Susquehanna Union Railroad Company, a holding company owned by Richard D. Robey, to own all of the stock of 6 Class III railroads also owned and controlled by Robey.

On April 12, 2010, Susquehanna Union Railroad Company (SURC), a noncarrier holding company, filed a petition for exemption (petition) from the prior approval requirements of 49 U.S.C. § 11323(a)(4) to acquire 100% stock control of 6 Class III railroads: North Shore Railroad Company, Nittany & Bald Eagle Railroad Company, Shamokin Valley Railroad Company, Juniata Valley Railroad Company, Lycoming Valley Railroad Company, and Union County Industrial Railroad Company (collectively, System Carriers). By a decision served on August 27, 2010, the Board instituted a proceeding. The Board will grant the exemption.[2]

BACKGROUND

SURC is a noncarrier holding company owned by Richard D. Robey. Robey also is the sole owner of the System Carriers. Currently, significant management, budgeting, maintenance, and operational functions for the 6 System Carriers take place at a central office in Northumberland, Pa., all overseen by Robey. SURC states that, for the purpose of conforming

[1] The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

[2] SURC's petition also requested that the Board preempt and nullify, under 49 U.S.C. § 11321(a), a provision of an operating agreement between SEDA-COG Joint Rail Authority (JRA) and certain System Carriers that lease and operate separate lines owned by JRA. The provision requires JRA to approve any change of control of certain System Carriers. In a letter filed on July 28, 2010, JRA states that the parties successfully concluded settlement negotiations and that it consents to the proposed transaction.

the corporate structure of the System Carriers with the day-to-day functional management and operations of the System Carriers, it seeks to consolidate the System Carriers into SURC. SURC would obtain 100% stock control of the System Carriers by a noncash tender of 100% of shares in the System Carriers stock from Robey to SURC in exchange for issuance of additional shares of SURC to Robey. As a result, Robey would own and control the 6 System Carriers through SURC.

DISCUSSION AND CONCLUSIONS

The acquisition of control of at least 2 rail carriers by a person that is not a rail carrier requires prior approval by the Board under 49 U.S.C. § 11323(a)(4). Under 49 U.S.C. § 10502(a), however, the Board must exempt a transaction or service from regulation if it finds that: (1) regulation is not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. § 10101; and (2) either (a) the transaction or service is limited in scope; or (b) regulation is not needed to protect shippers from the abuse of market power.[3]

In this case, an exemption from the prior approval requirements of 49 U.S.C. §§ 11323-25 is consistent with the standards of 49 U.S.C. § 10502. Detailed scrutiny of the proposed transaction through an application for review and approval under 49 U.S.C. §§ 11323-25 is not necessary to carry out the RTP. Rather, an exemption will promote that policy by minimizing the need for Federal regulatory control over the proposed transaction and ensuring the development and continuation of a sound rail transportation system that will continue to meet the needs of the shipping public. 49 U.S.C. §§ 10101(2) and (4). By allowing the consolidation of control of the System Carriers through SURC, an exemption would encourage the efficient management of the System Carriers. 49 U.S.C. § 10101(9). An exemption also would allow for the expeditious handling and resolution of this transaction. 49 U.S.C. § 10101(15). Other aspects of the RTP will not be adversely affected.

Regulation of this transaction is not needed to protect shippers from an abuse of market power. SURC has indicated that the proposed transaction will not result in a change in rail operations or a lessening of competition. The transaction involves only a nominal change of control by means of consolidating 100% stock control of the System Carriers, which Robey currently owns and controls, into a noncarrier holding company, which is owned and controlled

[3] This transaction would normally be subject to the Board's class exemption under 49 C.F.R. § 1180.2(d)(3), which exempts a transaction that is within a corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. However, SURC instead filed a petition for exemption in light of the now resolved issues arising from the operating agreement with JRA.