

# TRANSPORT COUNSEL PC

ATTORNEYS AT LAW

236188

June 13, 2014

**BY HAND**

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E. Street, SW  
Washington, DC 20423-0001

ENTERED  
Office of Proceedings  
June 13, 2014  
Part of  
Public Record



Re: STB Finance Docket No. 35841, Piedmont & Atlantic Railroad Co., Inc. d/b/a Yadkin Valley Railroad Company -- Lease Exemption Containing Interchange Commitment -- Norfolk Southern Railway Company

Dear Ms. Brown,

Enclosed for filing in the above-referenced proceeding are (1) an original and 10 copies of the verified notice of exemption of Piedmont & Atlantic Railroad Co., d/b/a Yadkin Valley Railroad Company ("YVRR"), pursuant to 49 C.F.R. § 1150.41 (the "Notice"), as well as a check in the amount of \$1,900 to cover the cost of the filing, (2) an original and 10 copies of a Petition for Waiver of YVRR with respect to the labor notice requirements at 49 C.F.R. §1150.42(e), and (3) 11 copies of YVRR's Certificate of Posting and related Notice of Intent with respect to the labor notice requirements at 49 C.F.R. §1150.42(e).

Confidential information filed pursuant to 49 C.F.R. § 1150.43(h) will be filed in this proceeding by separate cover.

Please acknowledge receipt of this letter by date-stamping the enclosed acknowledgment copy.

Respectfully submitted,

*Rose - Michele Nardi / EJY*

Rose-Michele Nardi

FEE RECEIVED  
June 13, 2014  
SURFACE  
TRANSPORTATION BOARD

FILED  
June 13, 2014  
SURFACE  
TRANSPORTATION BOARD

**PIEDMONT & ATLANTIC RAILROAD CO., INC.,  
D/B/A YADKIN VALLEY RAILROAD COMPANY  
--LEASE EXEMPTION CONTAINING INTERCHANGE COMMITMENT--  
NORFOLK SOUTHERN RAILWAY COMPANY**

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1150.41**

**STB FINANCE DOCKET NO. 35841**

Applicant's name and current mailing address:

Piedmont & Atlantic Railroad Co., Inc.,  
d/b/a Yadkin Valley Railroad Company  
422 West Cumberland Avenue  
Knoxville, TN 37902  
Tel (865) 525-9400

Applicant's representative to receive correspondence:

Rose-Michele Nardi  
Transport Counsel PC  
1701 Pennsylvania Ave., NW, Ste. 300  
Washington, DC 20006  
(202) 349-3660

Information concerning the agreement:

Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company ("YVRR"), a class III rail carrier, and Norfolk Southern Railway Company ("NS") have entered into an Amendment to Lease ("Lease Amendment"), which, among other things, extends the term of the current lease agreement. YVRR previously received regulatory authority to lease and operate over the same property covered by the Lease Amendment.<sup>1</sup>

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<sup>1</sup> See Finance Docket No. 32462, *Piedmont & Atlantic Railroad Co., Inc. – Lease and Operation Exemption – L&S Holding Company d/b/a Laurinburg & Southern Railroad Co. and Yadkin Valley Railroad Company*, served March 29, 1994 ("Original Lease Decision"). Subsequent to the Original Lease Decision, YVRR became the lessee (rather than the sublessee) of the Subject Lines (as defined below). In 2009, YVRR filed for STB authority to purchase the Subject Lines pursuant to an option to purchase in the original lease agreement. See *Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company -- Acquisition and Operation Exemption -- Norfolk Southern Railway Company*, served October 23, 2009. That purchase transaction was never consummated.

Operator of the property:

YVRR will continue to be the exclusive provider of common carrier freight operations over the Subject Lines (as defined below).

Brief summary of the proposed transaction:

NS, lessor of the Subject Lines, is headquartered at Three Commercial Place, Norfolk, Virginia 23510. Pursuant to the Lease Amendment, YVRR intends to continue to lease the Subject Lines, which total approximately 93 route miles and extend: (1) approximately from milepost K-37.0 at Rural Hall, Forsyth County, NC to milepost K-100.2 at North Wilkesboro, Wilkes County, NC, and (2) approximately from milepost CF-0.0 at Mount Airy, Surry County, NC to milepost CF-29.8 at Rural Hall, Forsyth County, NC.<sup>2</sup>

Consummation of Purchase Agreement/Labor Notice Requirements:

On June 13, 2014, contemporaneously with this Notice, YVRR is filing with the Surface Transportation Board (the "Board") a Petition for Waiver from the labor notice requirements at 49 C.F.R. § 1150.42(e). YVRR will consummate the Lease Amendment on or after the effective date of this Notice, but shall in no event consummate the Lease Amendment before the Board either (i) grants YVRR's Petition for Waiver, or (ii) YVRR satisfies the applicable labor notice requirements.

Map:

A map of the Subject Lines is attached hereto as Exhibit A.

Certificate of projected revenue:

In accordance with 49 C.F.R. § 1150.43(g), a certificate concerning YVRR's projected revenue is attached as Exhibit B.

Interchange Commitment:

Both the original lease agreement and the amended lease agreement contain lease credits. The Board previously has indicated that "lease credits are a type of interchange commitment". See STB Docket No. EP 714, *Information Required in Notices and*

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<sup>2</sup> In the Original Lease Decision, YVRR also received authority to lease and operate the rail line approximately between milepost CF-29.8 at Rural Hall, NC and milepost CF-38.5 near Brooks Cove, NC. In 1995, YVRR and NS filed a notice of exemption to discontinue and abandon, respectively, this segment of rail line. See Docket Nos. AB-464X and AB-290 (Sub-No. 174X), *Piedmont and Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company – Discontinuance of Service Exemption – In Forsyth and Stokes Counties and the City of Rural Hall, NC; Norfolk Southern Railway Company – Abandonment Exemption – In Forsyth and Stokes Counties and the City of Rural Hall, NC*, served Feb. 9, 1996.

*Petitions Containing Interchange Commitments*, served Sept. 5, 2013. Accordingly, this Notice of Exemption (the "Notice") addresses the interchange commitment requirements set forth at 49 C.F.R. § 1150.43(h) (the "Interchange Commitment Rules"). However, NS and YVRR believe, under the facts present in the subject transaction, the lease credit arrangement does not constitute an interchange commitment subject to the Interchange Commitment Rules. Accordingly, NS and YVRR have filed, contemporaneously with this Notice, a Motion to Strike the information provided by this Notice pursuant to the Interchange Commitment Rules.<sup>3</sup>

Pursuant to the Interchange Commitment Rules, YVRR provides the following information:

- (i) The affected interchange point is NS's North Winston-Salem Yard in North Winston-Salem, North Carolina.<sup>4</sup>
- (ii) The confidential version of the original lease agreement and the Lease Amendment are being filed with the Board by separate cover, under 49 C.F.R. § 1104.14(a).
- (iii) The following shippers or consignees located on the Subject Lines are currently using the Subject Lines to ship or receive freight by rail or have so used the Subject Lines (together, the "Shippers") in 2012 or 2013:
  1. 3T Trucking
  2. A&M Freight
  3. Blyth Home Scents
  4. Certainteed
  5. Detroit Salt
  6. Duke Energy
  7. East Coast Millwork
  8. Insteel Wire
  9. Jeld-Wen
  10. Louisiana Pacific
  11. NC Foam
  12. Osage
  13. Perdue Farms
  14. Plygem (acquired Certainteed facility in 2014)
  15. Surry Chemical
  16. TNT Carports
  17. Tyson
  18. Wayne Farms
  19. Weyerhaeuser
- (iv) The aggregate number of carloads the Shippers originated or terminated within the last two years is being filed by separate cover under 49 C.F.R. § 1104.14(a).

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<sup>3</sup> With respect to the information provided with this Notice pursuant to the Interchange Commitment Rules, YVRR and NS request that, if the Board grants the Motion to Strike, all such information be removed from the record.

<sup>4</sup> Although the AAR-registered interchange station is Rural Hall, NC, the physical interchange of rail cars between NS and YVRR occurs at North Winston-Salem, NC.

- (v) Attached hereto is Certificate of Service, certifying that the Shippers<sup>5</sup> have been served a copy of this Verified Notice of Exemption.
- (vi) No third party railroad physically interchanges with the Subject Lines.
- (vii) An estimate of the difference between the sale or lease price with and without the interchange commitment is being filed by separate cover under 49 C.F.R. § 1104.14(a).
- (viii) The case caption of this Verified Notice of Exemption identifies the existence of an interchange commitment.

### Environmental Issues

Environmental documentation normally need not be prepared for a lease that does not cause diversions from rail to motor carriage greater than (A) 1,000 rail carloads a year, or (B) an average of 50 rail carloads per mile per year for any part of the affected line (49 C.F.R. § 1105.7(e)(4)), on the one hand, and that does not result in (1) an increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, (2) an increase in rail yard activity of at least 100 percent (measured by carload activity), or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment (49 C.F.R. § 1105.7(e)(5)), on the other hand. *See* 49 C.F.R. § 1105.6(c)(2).

The subject transaction will not cause changes in carrier operations that exceed the above-listed thresholds. Therefore, no environmental documentation is required for this Notice.

Transactions involving a sale, lease or transfer of a rail line for the purpose of continued rail operations are exempt from the historic report requirements of 49 C.F.R. § 1105.8(a) if abandonment of such operations requires further approval by the Board and there are no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. *See* 49 C.F.R. § 1105.8(b)(1).

### Historic Report

Common carrier freight service over the subject lines will continue, and the abandonment of rail operations over the Subject Lines would require prior approval or an exemption. YVRR does not have any plans to dispose of or alter properties subject to Board jurisdiction that are 50 or more years old. Therefore, a historic report is not required for

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<sup>5</sup> Because Plygem acquired Certainteed's facility on the Subject Lines in 2014, a copy of the Verified Notice of Exemption is being sent to Plygem and not Certainteed.

this filing.

Respectfully submitted,

*Rose - Michele Nardi*

Rose-Michele Nardi  
Transport Counsel PC  
1701 Pennsylvania Ave., NW, Ste. 300  
Washington, DC 20006

Attorneys for:

Piedmont & Atlantic Railroad Co., Inc.,  
d/b/a Yadkin Valley Railroad Company

Dated: June 13, 2014

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1150.41**

**STB Finance Docket No. 35841**

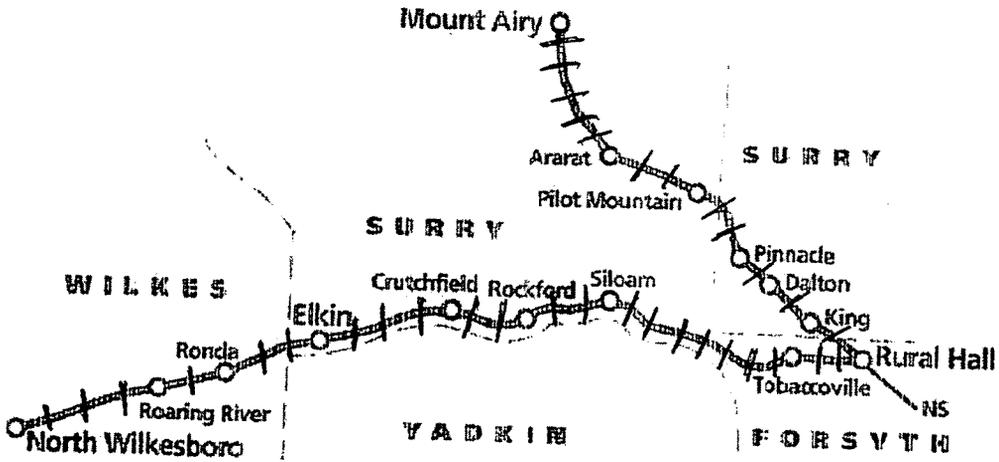
**PIEDMONT & ATLANTIC RAILROAD CO., INC.,  
D/B/A YADKIN VALLEY RAILROAD COMPANY  
--LEASE EXEMPTION CONTAINING INTERCHANGE COMMITMENT--  
NORFOLK SOUTHERN RAILWAY COMPANY**

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**EXHIBIT A**

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**MAP**



|||||  
 Subject Lines

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1150.41**

**STB Finance Docket No. 35841**

**PIEDMONT & ATLANTIC RAILROAD CO., INC.,  
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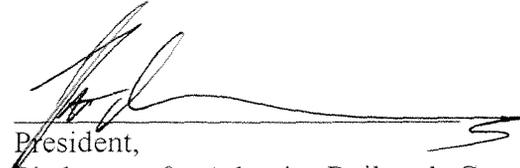
**EXHIBIT B**

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**CERTIFICATE OF REVENUE**

**CERTIFICATE OF REVENUE**

In accordance with 49 C.F.R. § 1150.43(g), I do hereby certify that the revenue projected for as a result of this transaction will not result in the creation of a class II or class I rail carrier.

  
\_\_\_\_\_  
President,  
Piedmont & Atlantic Railroad Co., Inc.,  
d/b/a Yadkin Valley Railroad Company

Dated: 6/13/ \_\_\_\_\_, 2014

**SURFACE TRANSPORTATION BOARD**

***VERIFIED NOTICE OF EXEMPTION***

**STB FINANCE DOCKET No. 35841**

**PIEDMONT & ATLANTIC RAILROAD CO., INC.,  
D/B/A YADKIN VALLEY RAILROAD COMPANY  
--LEASE EXEMPTION CONTAINING INTERCHANGE COMMITMENT--  
NORFOLK SOUTHERN RAILWAY COMPANY**

Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company, a class III rail carrier, has filed a notice of exemption, pursuant to 49 C.F.R. § 1150.41, to continue to lease and operate the following rail lines of Norfolk Southern Railway Company (“NS”), which total approximately 93 route miles: (1) approximately from milepost K-37.0 at Rural Hall, Forsyth County, NC to milepost K-100.2 at North Wilkesboro, Wilkes County, NC, and (2) approximately from milepost CF-0.0 at Mount Airy, Surry County, NC to milepost CF-29.8 at Rural Hall, Forsyth County, NC.<sup>1</sup>

Comments must be filed with the Surface Transportation Board, Office of the Secretary, 395 E Street, S.W., Washington, D.C. 20423-0001 and served on Rose-Michele Nardi, Transport Counsel PC, 1701 Pennsylvania Ave., NW, Ste. 300, Washington, D.C. 20006, (202) 349-3660.

This notice is filed under 49 C.F.R. § 1150.41. If the notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.

Decided:

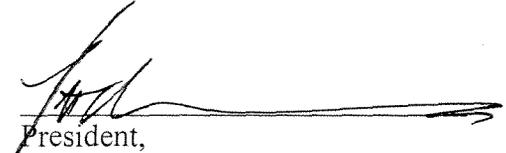
By the Board,

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<sup>1</sup> YVRR and NS have now entered into an amendment to the original lease agreement.

**VERIFICATION**

I, Peter V. Claussen, President of Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company, certify under penalty of perjury that the foregoing notice of exemption is true and correct to the best of my knowledge, information and belief. Further, I certify that I am qualified and authorized to file this Verified Notice of Exemption.



President,  
Piedmont & Atlantic Railroad Co., Inc., d/b/a  
Yadkin Valley Railroad Company

Dated: 6/13, 2014

CERTIFICATE OF SERVICE

I hereby certify that, on June 13, 2014, a copy of the verified notice of exemption of  
Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company in STB Finance  
Docket No. 35841, was served by U.S. first-class mail, postage prepaid, on the following:

3T Trucking  
Attn: President/Plant Manager  
4064 Thomasville Road  
Winston Salem, NC 27107

A & M Freight  
Attn: President/Plant Manager  
745 Underwood Road  
Elon, NC 27244

Blyth Home Scents  
Attn: President/Plant Manager  
430 Gentry Road  
P.O. Box 918  
Elkin, NC 28621

Plygem  
Attn: President/Plant Manager  
1149 ABTco Road  
P.O. Box 189  
Roaring River, NC 28669

Detroit Salt  
Attn: President/Plant Manager  
12841 Sanders Street  
Detroit, MI 48217

Duke Energy  
Attn: President/Plant Manager  
550 South Tryon Street  
P.O. Box 1090  
Charlotte, NC 28201

East Coast Millwork  
Attn: President/Plant Manager  
2 Grandview Street  
North Wilkesboro, NC 28659

Insteel Wire Products  
Attn: President/Plant Manager  
1373 Boggs Srive  
Mount Airy, NC 27030

Jeld-Wen, Inc.  
Attn: President/Plant Manager  
407 Harbor Isles Blvd  
Klamath Falls, OR 97601

Louisiana Pacific  
Attn: President/Plant Manager  
1068 ABTco Road  
P.O. Box 98  
Roaring River, NC 28669

NC Foam  
Attn: President/Plant Manager  
1515 Carter Street  
P.O. Box 1528  
Mount Airy, NC 27030

Osage  
Attn: President/Plant Manger  
1412 Mill Race Drive  
P.O. Box 1689  
Salem, VA 24153

Perdue Farms  
Attn: President/Plant Manager  
517 West Main Street  
P.O. Box 1537  
Salisbury, MD 21802

Surry Chemicals  
Attn: President/Plant Manager  
241 Hickory Street  
P.O. Box 1447  
Mount Airy NC 27030

TNT Carports  
Attn: President/Plant Manager  
170 Holly Springs Road  
Mount Airy, NC 27030

Tyson Foods  
Attn: President/Plant Manger  
220 W. Don Tyson Parkway  
Springdale, AR 72762

Wayne Poultry  
Attn: President/Plant Manger  
10949 NC Highway 268  
Elkin, NC 28621

Weyerhaeuser  
Attn: President/Plant Manager  
184 Gentry Road  
P.O. Box 590  
Elkin, NC 28621

Rose-Michele Nardi /ETJ  
Rose-Michele Nardi, Transport Counsel, PC