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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36647]

Pennsylvania & Southern Railway, LLC—Acquisition and Operation Exemption—
Letterkenny Industrial Development Authority

Pennsylvania & Southern Railway, LLC (PSCC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Letterkenny Industrial Development Authority (LIDA) and to operate approximately 25 miles of rail line and associated right-of-way serving the Cumberland Valley Business Park and the Letterkenny Army Depot near Chambersburg, Franklin County, Pa., (the Lines). PSCC states that there are no mileposts on the Lines.

According to the verified notice, PSCC has operated over the Lines pursuant to an agreement between PSCC and the Franklin County General Authority (FCGA) since 2004, and now PSCC seeks authority to acquire ownership of the Lines from LIDA.¹ PSCC states that the purchase would provide it with incentive to invest in the tracks and further development of the rail business. (Notice 4.)

¹ According to the verified notice, LIDA owns the property and/or the easements on which the Lines are located. (Notice 4 n.2). LIDA previously assigned the easements to FCGA, which entered into operating agreements with PSCC. See Pa. & S. Ry.—Operation Exemption—Franklin Cnty. Gen. Auth., FD 34461 (STB served Feb. 12, 2004); See Pa. & S. Ry.—Operation Exemption—Franklin Cnty. Gen. Auth., FD 35893 (STB served Jan. 8, 2015). FCGA, in turn, subsequently reassigned the easements back to LIDA. (Id.)

The verified notice states that the parties entered into an Agreement of Sale for PSCC to own and operate the Lines and that the transaction closed at the end of September 2022. PSCC states that, because it was already the operator of the Lines, it inadvertently did not file for the acquisition of the Lines at that time. PSCC states that it will commence operation of the Lines as the owner pursuant to the agreement as of the effective date of this notice of exemption.

PSCC certifies that the proposed acquisition of the Lines does not involve any interchange commitments. PSCC further certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III carrier and will not exceed \$5 million.

The transaction may be consummated on or after July 20, 2023, the effective date of the exemption (30 days after the verified notice 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 July 13, 2023.

All pleadings referring to Docket No. FD 36647, should be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on PSCC's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

According to PSCC, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: June 30, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.