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SERVICE DATE – DECEMBER 1, 2022

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36648]

Aberdeen Carolina and Western Railway Company—Acquisition Exemption—Norfolk Southern Railway Company.

The Aberdeen Carolina and Western Railway Company (ACWR), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.42. to acquire from Norfolk Southern Railway Company (NSR) approximately 104 miles of rail line between milepost 282.63 at Gulf, Chatham County, and milepost 386.91 at Charlotte, Mecklenburg County, and running through Mecklenburg, Cabarrus, Stanly, Montgomery, and Chatham Counties, N.C. (the Line).¹ According to the verified notice, ACWR has operated the Line, which is also known as the Piedmont Subdivision, pursuant to a Lease and Option to Purchase Agreement since 1989.²

The verified notice states that ACWR and NSR have negotiated a Purchase and Sale Agreement and expect to close on or shortly after the effective date of the exemption.

ACWR certifies that the proposed acquisition of the Line does not involve any provision or agreement that would limit future interchange with a third-party connecting

¹ In the verified notice, ACWR states that it also owns and operates a connected 34.5-mile rail line, known as the Sandhills Division, between Aberdeen, N.C., and Star, N.C., where it connects with the Line.

² See Aberdeen Carolina and W. Ry.—Lease Exemption—S. Ry Co's line between Charlotte and Gulf, N.C., FD 31404 (ICC served March 28, 1989).

carrier. ACWR further certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. Pursuant to 49 C.F.R. § 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, ACWR's verified notice includes a request for waiver of the 60-day advance labor notice requirements. ACWR's waiver request will be addressed in a separate decision. The Board will establish the effective date of the exemption in its separate decision on the waiver request.

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 December 8, 2022.

All pleadings referring to Docket No. FD 36648, 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 ACWR's representative, Suzanne L. Silverman, Kaplan Kirsch & Rockwell LLP, 1634 I (Eye) Street, N.W., Suite 300, Washington, DC 20006.

According to ACWR, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b).

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

Decided: November 28, 2022.

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