

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35281]

CSX Transportation, Inc.—Trackage Rights Exemption—Commonwealth Railway
Incorporated

Pursuant to a written trackage rights agreement,¹ Commonwealth Railway Incorporated (CWRY) has agreed to grant non-exclusive overhead trackage rights to CSX Transportation, Inc. (CSXT), over CWRY's line of railroad between Suffolk, VA, milepost 16.50, and Churchland, VA, milepost 9.90, a distance of approximately 6.60 miles.²

The earliest this transaction may be consummated is August 26, 2009, the effective date of the exemption (30 days after the amendment to the notice of exemption

¹ A redacted version of the proposed trackage rights agreement between CSXT and CWRY was filed with the notice of exemption. The full version of the draft agreement was concurrently filed under seal along with a motion for protective order. The motion is being addressed in a separate decision. As required by 49 CFR 1180.6(a)(7)(ii), the parties must file a copy of the executed agreement within 10 days of the date the agreement is executed.

² On July 27, 2009, CSXT filed an amendment to its verified notice of exemption to comply with the information required by 49 CFR 1180.4(g)(4)(i), thereby making July 27, 2009, the official filing date for the notice. Parties are reminded that, when filing a notice of exemption for transactions that may limit future interchange with a third-party connecting carrier, parties must provide the following additional information: (1) disclose the existence of the provision or agreement that limits or restricts interchange; (2) disclose the affected interchange points; and (3) file a confidential, complete version of the documents containing the provision or agreement that limits or restricts interchange.

was filed). The purpose of the trackage rights agreement is to improve CSXT's access to the Maersk Terminal in the port of Norfolk and to provide competitive service for intermodal and other traffic originating at, and destined for, the port.

Pursuant to 49 CFR 1180.4(g)(i), CSXT discloses that the agreement contains a provision prohibiting CSXT from using the line for interchange with any third-party carrier, wherever one may connect with, and create an interchange point on, the line.

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the 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. Stay petitions must be filed at least 7 days before the exemption becomes effective.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35281, 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 Steven C. Armbrust, CSX Transportation, Inc., 500 Water Street, J-150, Jacksonville, FL 32202 and Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

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Decided: August 6, 2009.

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

Anne K. Quinlan

Acting Secretary