

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 03-1148 Filed 1-16-03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34302]

Washington County Railroad Company—Acquisition and Operation Exemption—Certain Rights of Newport and Richford Railroad Company, Northern Vermont Railroad Company Incorporated and Canadian American Railroad Company

The Washington County Railroad Company (WCRC) has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from the Estates of Newport and Richford Railroad Company (N&R), Northern Vermont Railroad Company Incorporated (NVT) and Canadian American Railroad Company (CDAC) (collectively, the Sellers),¹ an exclusive operating easement on a 61.58-mile rail line, extending between milepost 63.58 in Newbury (Wells River) and milepost 2.0 in Newport, in Orange, Caledonia and Orleans Counties, VT (the Wells River-Newport Line).² WCRC also seeks to acquire from CDAC, by assignment, an exclusive operating easement over a connecting 40-mile line of railroad extending between approximately milepost 123 in Hartford (White River Junction) and milepost 163 in Newbury (Wells River), VT (the White River Junction-Wells River Line).³ As a result

of these transactions, WCRC will have the right and obligation to provide common carrier service on a combined 101.58-mile rail line between Hartford and Newport, VT pursuant to the exclusive operating easements.

Consummation of the transaction was expected to occur on December 26, 2002 (7 days after the exemption was filed), but not before Montreal, Maine & Atlantic Railway, Ltd. has consummated its acquisition of certain other rail assets belonging to the BAR rail system in Vermont and Maine.⁴

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34302, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on David W. Wulfson, Washington County Railroad Company, One Railway Lane, Burlington, VT 05401-5290.

Board decisions and notices are available on our website at <http://www.stb.dot.gov>.

Decided: January 13, 2003.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34300]

Jeffrey L. Sutch and Leonard J. Smolsky-Intracorporate Family Transaction Exemption

Jeffrey L. Sutch and Leonard J. Smolsky (Applicants), have filed a verified notice of exemption to merge Penn-Jersey Lines, Inc. (PJRL) into SMS Rail Service, Inc. (SLRS) with SLRS as the surviving entity.¹

The transaction was scheduled to be consummated on or after December 27, 2002, the effective date of the exemption (7 days after the notice was filed).

The proposed merger transaction will eliminate the administrative expense of maintaining two separate organizations, thus reducing the operating costs of each. The merger will permit the consolidation of the railroads' equipment, their locomotives and cars, thus resulting in improved service to the shippers served by the two railroads.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The Applicants state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c) however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III railroad carriers. Because this transaction involves Class III rail carriers only, the Board, under that statute, may not impose labor protective conditions for this transaction.

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 transaction.

¹ See *Penn-Jersey Rail Lines Inc.—Acquisition and Operations Exemption—WMI Properties, Inc.*, STB Finance Docket No. 33414 (STB served June 24, 1997); *SMS Rail Service, Inc.—Lease and Operate Exemption—Pureland Association, Inc.*, STB Finance Docket No. 32494 (STB served May 26, 1994); and *Jeffrey L. Sutch and Leonard J. Smolsky—Continuance in Control Exemption—Penn-Jersey Rail Lines, Inc.*, STB Finance Docket No. 33415 (STB served June 24, 1997).

Both PJRL and SLRS are Class III carriers. PJRL's lines are in Pennsylvania. SLRS's lines are in New Jersey.

¹ The Sellers are railroads in the Bangor and Aroostook Railroad Company (BAR) rail system. On August 15, 2001, an involuntary petition for bankruptcy under chapter 11 of the Bankruptcy Act was filed against BAR before the United States Bankruptcy Court for the District of Maine (Court). On May 14, 2002, the Sellers, filed voluntary petitions for relief under chapter 11 before the Court.

² In a related matter, the State of Vermont (Vermont) has contemporaneously filed a notice of exemption in *State of Vermont—Acquisition—Certain Assets of Newport and Richford Railroad Company, Northern Vermont Railroad Company Incorporated and Canadian American Railroad Company*, STB Finance Docket No. 34294, to acquire the Sellers' rights, title and ownership interest in the right-of-way, trackage and other physical assets on the Wells River-Newport Line. Vermont simultaneously filed a motion to dismiss that notice of exemption. The motion will be handled in a separate decision.

³ The Wells River-Newport Line connects with the White River Junction-Wells River Line at Wells River (despite the difference in milepost designations, which is the result of different milepost systems). Vermont already owns the White River Junction-Wells River Line. See *State of*

Vermont—Acquisition Exemption—Certain Assets of Boston and Maine Corporation, STB Finance Docket No. 33830 (STB served Dec. 20, 1999).

⁴ In *Montreal, Maine & Atlantic Railway LLC—Acquisition and Operation Exemption—Bangor & Aroostook Railroad Company, Canadian American Railroad Company, the Northern Vermont Railroad Company Incorporated, Newport & Richford Railroad Company and Van Buren Bridge Company*, STB Finance Docket No. 34110 (STB served Sept. 19, 2002), Montreal, Maine & Atlantic Railway LLC (MM&A) was authorized to acquire and operate, among other things, certain rail lines and other assets of the Seller in Maine and Vermont not including the Subject Line. In a subsequent decision served on December 18, 2002, the Board granted a motion to substitute Montreal, Maine & Atlantic Railway, Ltd. as the party that may acquire and operate the BAR system assets in lieu of Montreal Maine & Atlantic Railway LLC.