

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[STB Finance Docket No. 34814]

Cassatt Management, LLC d/b/a Bay Coast Railroad-Lease and Operation Exemption—Canonie Atlantic Co. on Behalf of Accomack-Northampton Transportation District Commission

Cassatt Management, LLC d/b/a Bay Coast Railroad (BCR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from Canonie Atlantic Co. (Canonie), acting on behalf of the Accomack-Northampton Transportation District Commission, and to operate approximately 68.3 miles of rail line as follows: (1) Between ESHR milepost 30.5 at Pocomoke City, MD (Norfolk Southern Railway Company (NS) interchange), and ESHR milepost 94.8 at Cape Charles, VA (float bridge); (2) between ESHR milepost 95.0 at Little Creek (Virginia Beach), VA, and ESHR milepost 97.6 at Camden Heights (Norfolk), VA; and (3) between ESHR milepost 100.7 at North Junction and ESHR milepost 102.1 at St. Julian, VA. As part of the transaction, BCR is being assigned to operate a 4.6-mile line of railroad leased by Canonie from NS extending (a) between ESHR milepost 97.6 at Camden Heights and ESHR milepost 100.7 at North Junction; and (b) on the Diamond Springs Line between NS milepost SN 5.2 and NS milepost SN 6.7. BCR also is being assigned to operate Canonie's trackage rights over a 4.0-mile line of railroad owned by NS, extending between Coleman Place and NS's Portlock Yard for interchange purposes. The Eastern Shore Railroad, Inc. currently operates these lines.

BCR certifies that its projected annual revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

The transaction was expected to be consummated on or after January 18, 2006.

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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34814, 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 John D.

Heffner, John D. Heffner, PLLC, 1920 N Street, NW., Suite 800, Washington, DC 20036.

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

Decided: January 27, 2006.

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

Vernon A. Williams,

Secretary.

[FR Doc. E6-1487 Filed 2-3-06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[STB Ex Parte No. 575]

Review of Rail Access and Competition Issues—Renewed Petition of the Western Coal Traffic League

AGENCY: Surface Transportation Board, DOT.

ACTION: Request for comments.

SUMMARY: The Surface Transportation Board is requesting comments on the renewed petition of the Western Coal Traffic League (WCTL) for a rulemaking to address agreements to sell or lease a rail line that restrict the ability of the purchaser or tenant to interchange traffic with competitors of the seller or landlord railroad.

DATES: Opening comments may be filed by any interested member of the public by March 8, 2006. Reply comments may be filed by March 28, 2006.

ADDRESSES: Any filing submitted in this proceeding must refer to STB Ex Parte No. 575 and may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing must comply with the instructions found on the Board's <http://www.stb.dot.gov> Web site, at the "E-FILING" link. Any person submitting a filing in the traditional paper format must submit an original and 10 paper copies of the filing (and also an IBM-compatible floppy disk with any textual submission in any version of either Microsoft Word or WordPerfect) to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. Because all comments will be posted to the Board's Web site, persons filing them with the Board need not serve them on other participants but must furnish a hard copy on request to any participant.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1609. [Federal Information Relay Service for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: Since enactment of the Staggers Rail Act of 1980, larger railroads have sold or leased many rail lines to small, newly created short line railroads. Some of the lease or sale agreements have had "paper barrier" provisions that limit the incentive or ability of the short line railroad to interchange traffic with connecting carriers that could compete with the lessor or vendor. Such paper barriers may result from credits for cars interchanged with the lessor or vendor, or they may involve a penalty for traffic interchanged with a competitor of the lessor or vendor, or a total ban on such interchange.

Concerns about such paper barriers were raised in STB Ex Parte No. 575, *Review of Rail Access and Competition Issues*, an ongoing umbrella proceeding to examine various issues concerning competition between railroads.¹ In response, on September 10, 1998, the Association of American Railroads (AAR) and the American Short Line and Regional Railroad Association (ASLRRA) executed a broad "Railroad Industry Agreement" ("RIA" or "agreement") that addressed paper barriers as well as various other issues.²

The provisions of the RIA specifically pertaining to paper barriers establish a few general principles,³ applicable only

¹ In STB Ex Parte No. 575, the Board initiated a broad review of several railroad access and competition issues. *Review of Rail Access and Competition Issues*, 3 S.T.B. 92 (1998).

² The broader RIA was evaluated by the Board in STB Docket No. S5R 100. In that proceeding, the Board requested comments on, and granted interim approval for, the rate-related provisions of the broader agreement for which the parties requested approval. Assn. of American Railroads et al.—Agreement—49 U.S.C. 10706, 3 S.T.B. 673 (1998). The Board subsequently granted final approval of these rate-related provisions. Assn. of American Railroads et al.—Agreement—49 U.S.C. 10706, 3 S.T.B. 910 (1998). The Board made no findings as to the paper barrier and other non-rate provisions because approval for them was not sought. The original 1998 version of the RIA is included in Attachment 2 of the renewed petition of WCTL, filed on March 21, 2005, that is the subject of this notice. The agreement has been amended at least once: see the comments of the Rail Industry Working Group filed May 2, 2005.

³ See, e.g., the following provisions:

Paper Barriers:

Only legitimate paper barriers should be enforceable. Paper barriers are restrictions on interchange imposed by contract at the time of creation of the Short Line. Legitimate paper barriers are those that are designed as fair payment for the sale or rental value of the line that created the Short Line. Such barriers should not restrict the Short Line's ability to develop New Traffic with another carrier if the selling or leasing Large Railroad can not or will not participate in the New Traffic. Excessive per car charges or other penalties imposed if a car is interchanged to another Large Railroad (other than legitimate paper barriers) are unreasonable and should not be permitted.

³ Paper Barriers and New Routes (applies to participating Class I and III Railroads)