

consummation by December 21, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: December 14, 2004.

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

Vernon A. Williams,
Secretary.

[FR Doc. 04-27857 Filed 12-20-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34632]

The Ohio and Pennsylvania Railroad—Acquisition and Operation Exemption—Rail Lines of Columbiana County Port Authority in Mahoning and Columbiana Counties, OH, and Beaver County, PA

The Ohio and Pennsylvania Railroad (O&P), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire (by lease) approximately 36 miles of rail line owned by the Columbiana County Port Authority (CCPA), between milepost 0.0 at or near Youngstown, OH, and milepost 35.7 at or near Darlington, PA.

The Central Columbiana and Pennsylvania Railway Company (CCPR) currently serves as the line's operator pursuant to a track lease and operating agreement with CCPA. On June 14, 2004, CCPR filed for bankruptcy protection before the U.S. Bankruptcy Court for the Eastern District of Arkansas, Little Rock Division (Case No. 4:04-bk-16887 M, Chapter 11) (bankruptcy court). Pursuant to an agreement between CCPA, O&P, and the bankruptcy trustee for CCPR, O&P will acquire and operate the line by assuming CCPR's rights, duties, and obligations under CCPR's track lease and operating agreement with CCPA (including CCPR's option to purchase the line in March 2006). The agreement is pending final approval from the bankruptcy court, which O&P expects will be granted before December 31, 2004.¹

The transaction is scheduled to be consummated on or after December 15,

2004. O&P certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier.

This transaction is related to STB Docket No. AB-556 (Sub-No. 2X), *Railroad Ventures, Inc.—Abandonment Exemption—Between Youngstown, OH, and Darlington, PA, in Mahoning and Columbiana Counties, OH, and Beaver County, PA*, which involves the purchase of the line by CCPA pursuant to the offer of financial assistance provisions of 49 U.S.C. 10904 and 49 CFR 1152.27.

If this 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. 34632, must be filed with the Surface Transportation Board, 125 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

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Decided: December 14, 2004.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34618]

East Penn Railway, Inc.—Modified Rail Certificate

On November 22, 2004, East Penn Railway, Inc. (East Penn), a Class III rail carrier, filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, subpart C, *Modified Certificate of Public Convenience and Necessity*, to operate a portion of a rail line known as the Octoraro Branch (also referred to as Line 142), extending for approximately 27.51 miles between milepost 26.98 at Chadds Ford Junction, PA, and milepost 54.49 at the Pennsylvania/Maryland state line near Sylmar, MD.

The Octoraro Branch was previously owned by the Penn Central

Transportation Company (Penn Central), and is currently owned by the Southeastern Pennsylvania Transportation Authority (SEPTA). The Octoraro Branch was not included in the final system plan at the time the Consolidated Rail Corporation was formed and, as such, was authorized to be abandoned without further regulatory approval pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law No. 94-210. SEPTA acquired the Octoraro Branch from the trustees of Penn Central after it was abandoned in 1976.

East Penn states that, until recently, the line was operated by the Morristown & Erie Railway, Inc. (M&E), under an interim operating agreement that terminated on November 19, 2004, and that it proposes to replace M&E as the interim operator. *See Morristown & Erie Railway, Inc.—Modified Rail Certificate*, STB Finance Docket No. 34369 (STB served July 24, 2003). On November 18, 2004, SEPTA and East Penn entered into an interim license agreement commencing on November 19, 2004. Under the operating agreement, East Penn will provide rail service over the Octoraro Branch from November 22, 2004, through approximately December 19, 2004, after which, East Penn plans to purchase the Octoraro Branch from SEPTA. The interim operating agreement will terminate at the transfer of ownership to East Penn.

East Penn will initially provide rail service on an as-needed basis, and will expand service as customers and traffic increases. East Penn states that the Octoraro Branch will connect with ISG Railways, Inc. (ISG), at Chadds Ford Junction, PA, in order to connect with Norfolk Southern Railway Company (NS) at Coatesville, PA. ISG's rail line also connects with the former Reading Railroad's Wilmington & Northern line at the Delaware/Pennsylvania state line, providing East Penn access to both NS and CSX Transportation, Inc., at Wilmington, DE.

The rail segment qualifies for a modified certificate of public convenience and necessity. *See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions*, Finance Docket No. 28990F (ICC served July 16, 1981).

East Penn indicates that: (1) There are no subsidizers; (2) there are no preconditions for shippers to meet to receive rail service; and (3) it has obtained liability insurance coverage.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of

¹ To ensure the continued availability of rail service to shippers on the line, the bankruptcy court, by a December 3, 2004 order, has approved an interim agreement between O&P and CCPR's bankruptcy trustee, which would allow O&P to assume immediate operational control of the line.