



308846  
ENTERED  
Office of Proceedings  
October 25, 2024  
Part of  
Public Record

Justin J. Marks  
T (202) 772-0916  
F +12027720919  
Email:jjmarks@ClarkHill.com

Clark Hill  
1001 Pennsylvania Avenue N.W.  
Suite 1300 South  
Washington, DC 20004  
T (202) 772-0909  
F (202) 772-0919

October 25, 2024

**VIA E-FILING**  
**49 C.F.R. §1150.42(e) WAIVER REQUESTED**

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20024

Re: STB Docket No. FD 36778  
East Tennessee Railway, L.P.  
- Lease and Operation Exemption -  
CSX Transportation, Inc.

Dear Ms. Brown:

Enclosed for e-filing on behalf of East Tennessee Railway, L.P. is a Notice of Exemption being filed in accordance with 49 CFR 1150.43. Included within this Notice of Exemption is a request for waiver of the notice requirements of 49 C.F.R. §1150.42(e).

The filing fee was paid using Pay.gov. Please let me know if there are any questions regarding this filing.

Sincerely,

Justin J. Marks  
Counsel for East Tennessee Railway, L.P.

Enclosure  
cc: Peter Denton, Counsel for CSX Transp., Inc.

FILED  
October 25, 2024  
SURFACE  
TRANSPORTATION BOARD

FEE RECEIVED  
October 25, 2024  
SURFACE [clarkhill.com](http://clarkhill.com)  
TRANSPORTATION BOARD

**Before the**  
**SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36778

**EAST TENNESSEE RAILWAY, L.P.**  
**- LEASE AND OPERATION EXEMPTION -**  
**CSX TRANSPORTATION, INC.**

---

**VERIFIED NOTICE OF EXEMPTION**  
**UNDER 49 U.S.C. §10902**

---

*(includes color images)*

Eric M. Hocky  
Clark Hill PLC  
Two Commerce Square  
2001 Market St.  
Suite 2620  
Philadelphia, PA 19103  
(215) 640-8523  
[ehocky@clarkhill.com](mailto:ehocky@clarkhill.com)

Justin J. Marks  
Clark Hill PLC  
1001 Pennsylvania Ave. N.W.  
Suite 1300 South  
Washington, DC 20004  
(202) 772-0916  
[jmarks@clarkhill.com](mailto:jmarks@clarkhill.com)

Dated: October 25, 2024

*Attorneys for East Tennessee Railway,  
L.P.*

**Before the  
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36778

**EAST TENNESSEE RAILWAY, L.P.  
- LEASE AND OPERATION EXEMPTION-  
CSX TRANSPORTATION, INC.**

---

**VERIFIED NOTICE OF EXEMPTION  
UNDER 49 U.S.C. §10902**

East Tennessee Railway, L.P. (“ETRY”), a Class III railroad and wholly-owned subsidiary of Genesee & Wyoming Inc.,<sup>1</sup> files this Notice of Exemption under 49 USC § 10902 to exempt from regulation, ETRY’s entry into an amendment (“Lease Amendment”) with CSX Transportation, Inc. (“CSXT”) to extend the term of, and to make other minor changes to, a lease for a line of railroad extending 5.0 miles, which includes 4.05 miles of rail line and two short spurs, known as Johnson City Lead and Carnegie Spur, in Washington County, TN (the “Leased Line”). The Leased Line extends from milepost ZJ 0.05 to milepost ZJ 4.10 near Johnson City. The two spurs extend west from the line in Johnson City and to the south of the city as shown on the map attached as Exhibit A. ETRY first received authority to enter into a lease with CSXT and to operate the Leased Line in 2003 (“Original Lease”). *East Tennessee Railway, L.P.– Lease and Operation Exemption – CSX Transp., Inc.*, STB Finance Docket No. 34404 (served Sept. 26, 2003).

**Notice**

In accordance with 49 C.F.R. §1150.43, ETRY hereby provides the following

---

<sup>1</sup> *Genesee & Wyoming Inc. RP Acquisition Company One and RP Acquisition Company Two – Control Exemption – Rail Partners, L.P.*, AN Railway, Et al., Atlantic & Western Railway, et al., and KWT Railway, Inc., STB Finance Docket No. 34708 (served June 24, 2005).

information:

- (a) The full name and address of Applicant: East Tennessee Railway, L.P., 13901 Sutton Park Drive South, Suite 270, Jacksonville, FL 32224.
- (b) Applicant's Representatives:
- |   |   |
|---|---|
| Eric M. Hocky<br>Clark Hill PLC<br>Two Commerce Square<br>2001 Market St.<br>Suite 2620<br>Philadelphia, PA 19103<br>(215) 640-8523 | Justin J. Marks<br>Clark Hill PLC<br>1001 Pennsylvania Ave.<br>N.W.<br>Suite 1300 South<br>Washington, DC 20004<br>(202) 772-0916 |
|---|---|
- (c) ETRY and CSXT are entering into the Lease Amendment which would extend the term of the Original Lease for an additional six years through September 30, 2030.
- (d) The current operator of the Leased Line is ETRY, and ETRY will continue to be the operator after the transaction.
- (e) Brief Summary of the Proposed Transaction: In 2003, ETRY entered into an agreement for ETRY to lease from CSXT and operate the Leased Line. *East Tennessee Railway, L.P.– Lease and Operation Exemption – CSX Transp., Inc.*, STB Finance Docket No. 34404 (served Sept. 26, 2003). ETRY and CSXT have now agreed to amend the agreement extending it through September 30, 2030. Board approval of this Lease Amendment is incorporated as a condition precedent for CSXT to close on its acquisition of the MNBR rail line that was approved by the Board in *CSX Transp., Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C.*, STB Finance Docket No. 36727, Decision No. 6 (served Oct. 17, 2024) (the “CSXT Transaction”).
- i. The name and address of the company leasing the Leased Line to ETRY is CSX Transportation, Inc. 500 Water Street, Jacksonville, FL 32202.

- ii. The Lease Amendment will be effective upon the later of the closing of the CSXT Transaction or the date that is thirty days after filing of this Notice of Exemption. ETRY is currently operating the Leased Line and will continue to do so after the Lease Amendment becomes effective.
- iii. The mileposts of the Leased Line extend from milepost ZJ 0.05 to milepost ZJ 4.10 near Johnson City. The two spurs extend west from the line in Johnson City and to the south of the city.
- iv. The total route miles to be leased and operated includes approximately 4.05 miles of rail line and two short spurs, known as Johnson City Lead and Carnegie Spur, comprising a total of 5.0 miles of track.
- (f) Attached as Exhibit A to this Notice of Exemption is a map of the Leased Line.
- (g) ETRY certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier.<sup>2</sup>
- (h) ETRY certifies that the lease which is being amended does not include an interchange commitment.

### **Labor Protection**

ETRY is a Class III carrier, and pursuant to 49 U.S.C. §10902(d), approval of this transaction may not be subjected to labor protection conditions. Additionally, since ETRY is already the operator of the Leased Line, there will be no employees adversely affected by the lease arrangements.

### **Environmental and Historic Reports**

---

<sup>2</sup> ETRY additionally certifies that its projected revenues after the transaction will not exceed \$5,000,000 per year.

This is an extension of a lease for continued rail operations that will not result in changes in carrier operations that will exceed the thresholds established in 49 C.F.R. §1105.7(e)(4) or (5). Further Board approval is required for ETRY to discontinue service or for CSXT to abandon the line. Accordingly, no environmental or historic documentation is required. *See* 49 C.F.R. §1105.6(c)(1); 49 C.F.R. §1105.8(b)(1).

### **Caption Summary**

Attached hereto as Exhibit B is the caption summary required by 49 C.F.R. §1150.44.

### **Conclusion**

Accordingly, ETRY requests that the Board issue a notice allowing the Lease Amendment to become effective upon the later of the closing of the CSXT Transaction or 30 days from the filing of this Notice of Exemption.

Respectfully submitted,



Eric M. Hocky  
Clark Hill PLC  
Two Commerce Square  
2001 Market St. Suite 2620  
Philadelphia, PA 19103  
(215) 640-8523  
[ehocky@clarkhill.com](mailto:ehocky@clarkhill.com)

Justin J. Marks  
Clark Hill PLC  
1001 Pennsylvania Ave. N.W.  
Suite 1300 South  
Washington, DC 20004  
(202) 772-0916  
[jmarks@clarkhill.com](mailto:jmarks@clarkhill.com)

Dated: October 25, 2024

*Attorneys for East Tennessee Railway, L.P.*

**VERIFICATION**

I, Gary Fillingame, President of *East Tennessee Railway, L.P.*, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on October 25, 2024

  
\_\_\_\_\_  
Gary Fillingame

**EXHIBIT A**

**MAP**





# **EXHIBIT B**

## **CAPTION SUMMARY**

**Before the  
SURFACE TRANSPORTATION BOARD  
STB Docket No. FD 36778**

**EAST TENNESSEE RAILWAY, L.P.  
- LEASE AND OPERATION EXEMPTION-  
CSX TRANSPORTATION, INC.**

---

**VERIFIED NOTICE OF EXEMPTION  
UNDER 49 U.S.C. §10902**

East Tennessee Railway, L.P. (“ETRY”), a Class III railroad, files this Notice of Exemption under 49 USC § 10902 to exempt from regulation, ETRY’s entry into an amendment (“Lease Amendment”) with CSX Transportation, Inc. (“CSXT”) to extend the term of, and to make other minor changes to, a lease for a line of railroad extending 5.0 miles of track, which includes 4.05 miles of rail line and two short spurs, known as Johnson City Lead and Carnegie Spur, in Washington County, TN (the “Leased Line”). The Leased Line extends from milepost ZJ 0.05 to milepost ZJ 4.10 near Johnson City. The two spurs extend west from the line in Johnson City and to the south of the city.

Comments must be filed with the Board and served on ETRY’s representative, Eric M. Hocky, Esq., Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8523.

The Notice is filed under 49 C.F.R. §1150.41. 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.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: \_\_\_\_\_, 2024.

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