

mitment on the part of Sea-Land to its customers."

Sea-Land will leave:

The Trans-Pacific Freight Conference of Japan/Korea, the Japan/Korea Atlantic and Gulf Freight Conference, the Japan/Korea Puerto Rico and Virgin Islands Freight Conference, Agreement 10107 (Hong Kong/Taiwan to U.S. West Coast), Agreement 10108 (Hong Kong/Taiwan to U.S. East Coast), the Philippines North America Freight Conference, the Malaysia Pacific Rate Agreement (Singapore), the Singapore New York Freight Conference, the Thailand Pacific Freight Conference, the Japan/Korea West Canada Freight Conference, the Japan/Korea East Canada Freight Conference and the Hong Kong/Taiwan West Canada Freight Conference.

Sea-Land will retain memberships in the Pacific Westbound Conference and the Pacific Straits Conference.

U.S. Steel Ordered to Pay \$3.5 Million for Rebates From C & O in Coal Moves

Judge Miles W. Lord of the U.S. district court for the district of Minneapolis, at Minneapolis, has ordered United States Steel to pay a fine of \$3.5 million for illegally receiving rebates and concessions from a regulated carrier, according to an Interstate Commerce Commission announcement January 24. U.S. Steel was charged with violations of the Elkins Act.

The ICC said the fine is the largest civil penalty ever imposed against a shipper for receiving illegal rebates.

Judge Lord handed down his order on January 11, upholding a recommendation made by a federal magistrate on October 6, 1978.

The Commission charged U.S. Steel in 1975 with soliciting and receiving from the Chesapeake & Ohio Railroad Co. illegal refunds on coal shipments destined to U.S. Steel's works at Duluth, Minn. Specifically, the ICC said, the coal shipments were transported under a tariff covering the three-part—rail-to-water-to-rail—movement to the Duluth Plant.

The Commission said U.S. Steel solicited and received rebates from the C & O, using U.S. Steel's interpretation of applicable transportation tariffs. That interpretation, the ICC added, would result in discrimination against trucking companies and water barges which could not have granted the refunds. Such discrimination, the Commission said, is

unlawful under the Interstate Commerce Act.

Peter M. Shannon, Jr., director of the ICC's Bureau of Investigations and Enforcement, said the fine—\$3,557,276—"will aid the Commission's enforcement program, particularly in terms of deterring shippers from violating the Elkins Act."

Proposed Corporate Merger Of Raritan Into Conrail Exempted From ICC Okay

The Interstate Commerce Commission has exempted the proposed merger of the Raritan River Railroad Co. into Conrail from its requirements of prior consideration and approval of the transaction.

The Commission issued a notice of exemption (served January 22) in Finance No. 29085, *Consolidated Rail Corporation—Merger—Raritan River Railroad Co., Exemption Under 49 USC 10505 From 49 USC 11343-11347.*

The ICC said "the power to exempt from regulation enables the Commission and railroads to commit their limited resources in areas where they are most needed by enabling the Commission to effectively deregulate those areas which have no significant bearing on the overall regulatory scheme." It added:

"In enacting 49 USC 10505, Congress clearly intended us to exempt certain limited transactions from our regulatory power. This is one such transaction."

The merger was made subject to employe-protective conditions the same as imposed in *New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 ICC 60 (1979)*, affirmed by slip opinion of the U.S. Court of Appeals for the Second Circuit, New York City, November 7, 1979.

The exemption becomes effective on the date of publication of notice thereof in the *Federal Register* and continues so for 90 days from January 22. Within that time, the ICC said the carriers must consummate the merger to take advantage of the exemption granted.

Comments opposing the exemption were filed by various shippers and receivers which presently utilize services of Raritan, the ICC said, adding that no comments in favor of the exemption were filed.

Commissioner George M. Stafford, joined by Commissioner Charles L. Clapp, dissented, saying:

"I fully believe that the Congress intended this Commission to exercise its discretion in utilizing 49 USC 10505 to exempt certain rail transactions. Ac-

cordingly, the automatic reliance on those provisions is wholly inappropriate, especially in the situation at hand where there is vigorous opposition to such a procedure. Use of the section 10505 provisions will deny shippers and other interested persons the opportunity to fully develop their positions and will, unfortunately, remove the burden of proof from the shoulders of petitioners. A more equitable approach would be to grant petitioners extensive waivers from the requirements of 49 CFR 1111, but to require them to proceed under 49 USC 11343, *et seq.*"

An exemption may be granted under 49 USC 10505 in a merger transaction, the ICC said, if it is limited in scope, not necessary to carry out the national transportation policy, would be an unreasonable burden, and would serve little or no useful purpose.

Conrail currently controls Raritan. Since April 18, 1979, all the outstanding stock of Raritan has been owned by Conrail, the ICC said, adding that the proposed merger is within the corporate family and is a limited transaction.

The ICC said regulation of the Conrail-Raritan merger is not necessary to carry out the goals of the national transportation policy, adding that it is a merger within a corporate family and will not affect considerations of the transportation policy since elimination of a corporate entity will be the only change resulting from the transaction. Elimination of Raritan, the ICC added, will reduce duplicative record and bookkeeping and will simplify the corporate structure of Conrail.

ICC consolidation procedures require a complete application to be filed so a decision can be reached within the time constraints of 49 USC 11345. The ICC said submission of the material necessary to comply with the consolidation procedures will be a time-consuming task requiring the dedication of financial resources, adding that to establish such a record would require the carriers to submit a complete application under 49 USC 11344 and would place an unreasonable burden on them.

The ICC said its granting of the exemption allows Conrail to avoid the burden of complying with *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights, and Lease Procedures*, 49 CFR part 1111 (1978).

A full proceeding under 49 USC 11343, the ICC said, would not alleviate the fears of the opponents of the proposed merger. Objections in comments received, the ICC said, were on the grounds that the merger allegedly would decrease the present high level of

service provided by Raritan and that Raritan's pride and adaptability would disappear after the merger.

Because this is a proposed merger within a corporate family involving little substantive change, the ICC said, its review of it would serve no useful purpose.

Norfolk & Western Plans Purchase of 31,000 Acres Of Kentucky Coal Lands

The Norfolk & Western Railway Co. has announced that it has increased its quarterly cash dividend and that it has entered into an agreement to buy a company owning coal lands in eastern Kentucky for \$20 million.

The N & W, based in Roanoke, Va., raised the quarterly cash dividend on its common stock to 55 cents a share, a 14.6 per cent increase from the prior rate of 48 cents a share quarterly. The new dividend, it said, will be paid March 10 to stockholders of record February 1.

The N & W said it has agreed to purchase Kentenia Corporation, a privately held company with headquarters in Boston, Mass., which owns or has mineral rights for about 31,000 acres of coal lands in Harlan and Bell counties, Kentucky. The holdings, the railroad said, include an estimated 118 million tons of coal reserves, as well as some timber, oil, and gas. It added that about two-thirds of the coal reserves are currently under lease, and that the \$20 million purchase price includes some facilities and equipment, including tipples, railroad sidings, buildings, and mining equipment.

"The transaction is scheduled to be completed March 26, pending receipt of favorable tax rulings from the Internal Revenue Service," the N & W said. "Kentenia will be operated as a wholly owned subsidiary of Pocahontas Land Corporation, an N & W subsidiary engaged in natural resources operations."

ICC Postpones Deadlines Set in BN Merger Case

Administrative Law Judge Geraldine R. Keyes of the Interstate Commerce Commission, presiding over a proceeding in which the Milwaukee is seeking relief from the effects of the merger that formed the Burlington Northern, has postponed to January 29 the deadline for the Milwaukee to file its petition for inclusion in the BN system.