

SERVICE DATE – NOVEMBER 22, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36777

FIRST COAST RAILROAD INC.—LEASE AND OPERATION EXEMPTION—
CSX TRANSPORTATION, INC.

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision waives the 60-day advance notice requirement with respect to First Coast Railroad Inc.'s exemption to extend the term of its lease for approximately 31.83 miles of rail line and allows the exemption to take effect on November 24, 2024.

Decided: November 21, 2024

By petition filed on October 25, 2024, First Coast Railroad Inc. (FCRD), a Class III rail carrier, filed a verified notice of exemption pursuant to 49 C.F.R. § 1150.41 to enter into an amendment to extend the term of, and to make other minor changes to, a lease with CSX Transportation, Inc. (CSXT), for a rail line extending from Yulee, Fla., at milepost S 611.95, to the end of track at Seals, Ga., milepost S 593.4, on the Kingsland Subdivision; and from Yulee, milepost SMA 35.1, to the end of track at Fernandina, Fla., milepost SMA 48.38, on the Fernandina Subdivision, a distance of approximately 31.83 miles (the Line).

FCRD states that it is currently operating the Line, which it has leased from CSXT since 2005. (Verified Notice 2); see also First Coast R.R.—Lease & Operation Exemption—CSX Transp., Inc., FD 34670 (STB served Apr. 25, 2005). Further, in its verified notice, FCRD certifies that its annual revenues currently exceed \$5 million. (Verified Notice 3.) Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require FCRD to post a notice of its intent to undertake the proposed transaction setting forth certain information at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. The regulation would also require FCRD to fulfill the notice requirements at least 60 days before the exemption becomes effective. However, concurrently with the filing of its verified notice, FCRD requested a waiver of those notice requirements. (See Verified Notice 3-4.)

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

In its request for waiver, FCRD states that the 60-day labor notice requirements are unnecessary because the proposed transaction would result in no changes for any employees working on the Line. (Id. at 5.) According to FCRD: (1) no FCRD employees would be affected by the proposed transaction; (2) there would be no operational changes; (3) no employees of CSXT have worked on the Line since 2005; and (4) no CSXT employees would be affected by the transaction. (See id.)

Notice of FCRD's exemption was served and published in the Federal Register on November 8, 2024 (89 Fed. Reg. 88,853). The published notice announced that the Board would establish the effective date of the exemption in a separate decision on the waiver request.

DISCUSSION AND CONCLUSIONS

The purpose of the notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.

Here, however, it does not appear that the purpose behind the requirements would be thwarted if the requested waiver is granted. The record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirements. FCRD is the current operator of the Line and has been since 2005, and FCRD states that there would be no changes for any FCRD employees working on the Line as a result of the proposed transaction. Moreover, FCRD indicates that CSXT has no employees who would be affected by the transaction.

Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. FCRD's lease and operation exemption will become effective on November 24, 2024, the day the exemption otherwise would take effect absent the notice requirement.

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. FCRD's request for waiver is granted.
2. FCRD's exemption will be effective on November 24, 2024.
3. This decision is effective on its date of service.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.