

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36775]

CG Railway, LLC—Operation Exemption—Rail Ferry Service

CG Railway, LLC (CGR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 for after-the-fact authority to operate a rail ferry service between the Port of Mobile, Ala., and the U.S. maritime boundary line in the Gulf of Mexico.¹

According to the verified notice, CGR provides a rail ferry service between the Port of Mobile and the Port of Coatzacoalcas, Veracruz in Mexico. CGR states that it began its rail ferry service in 2001 out of the Port of Mobile after receiving Board authorization for the lease and operation of certain tracks from the Terminal Railway Alabama State Docks (TASD) in Mobile, Ala.,² and that CGR's rail operations in Mobile are currently conducted pursuant to an exemption received in 2007 to lease from TASD and operate 0.583 miles of rail line.³ CGR states, however, that while it sought and

¹ By decision served April 4, 2024, in another proceeding, the Board directed CGR to indicate whether it had ever received Board authority to operate the rail car ferry service and, if not, to seek after-the-fact authority or explain why it believed authorization is not needed. GMéxico Transportes, S.A.B. de C.V.—Acquis. of Control Exemption—CG Ry., FD 36701, slip op. at 5 (STB served Apr. 4, 2024).

² See Cent. Gulf Ry.—Lease & Operation Exemption—Terminal Ry. Ala. State Docks, FD 33891 (STB served July 6, 2000).

³ See CG Ry.—Lease & Operation Exemption—Terminal Ry. Ala. State Docks, FD 35009 (STB served Apr. 12, 2007). As described in the verified notice that

obtained Board authorization for its operations of track within the Port of Mobile, its prior notices of exemption did not request, and thus GCR did not receive, authorization for operation of the rail ferry service. CGR represents that it is the common carrier responsible for the operation of the rail ferry service,⁴ and now seeks after-the-fact authorization to operate the service between the Port of Mobile and the U.S. maritime boundary line in the Gulf of Mexico.⁵

GCR certifies that the operation of the rail ferry service does not involve any interchange commitments. CGR further certifies that its projected revenues as a result of the rail ferry service will not result in the creation of a Class I or Class II rail carrier. However, CGR states that its annual revenues exceed, and are expected to continue to exceed, \$5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions for those employees, and certify to the Board that it has done so. According to the verified notice, CGR posted the required 60-day notice at the workplaces of CGR employees and certified to the Board that it had done so on May 7, 2024.⁶

CGR filed in Docket No. FD 35009, this line is different from the line that was the subject of the notice in Docket No. FD 33891.

⁴ The Verified Notice explains that CGR holds itself out as the common carrier for the rail service and is responsible for all commercial activities in support of the rail ferry service. CGR also provides details concerning its arrangements for chartering and operating the rail ferry vessels.

⁵ CGR is not seeking retroactive effectiveness for the exemption.

⁶ CGR states that none of CGR's employees are represented by a union.

The earliest this exemption may become effective is July 6, 2024 (60 days after the certification under 49 CFR 1150.42(e) was filed).⁷

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 effectiveness of the exemption. Petitions for stay must be filed no later than June 28, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36775, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on CGR's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

According to CGR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c)(1)(i) and from historic reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at www.stb.gov.

Decided: May 20, 2024.

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

⁷ CGR believes that a partial waiver of the 60-day notice period would be appropriate, where after-the-fact authority is being sought and no operational changes will result, but CGR states that it is not seeking such a waiver and that it understands that the exemption would not be effective until 60 days after its certification was filed.