

SERVICE DATE - MARCH 9, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36355

LOUISIANA SOUTHERN RAILROAD, L.L.C.—LEASE AND OPERATION EXEMPTION
WITH INTERCHANGE COMMITMENT—THE KANSAS CITY SOUTHERN RAILWAY
COMPANY

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

Digest:¹ This decision waives a 60-day advance notice requirement and allows Louisiana Southern Railroad, L.L.C., to continue to lease from The Kansas City Southern Railway Company and operate approximately 165.8 miles of rail line in Louisiana, on or after March 14, 2021.

Decided: March 8, 2021

On February 12, 2021, Louisiana Southern Railroad, L.L.C. (LAS), a Class III railroad, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to continue to lease from The Kansas City Southern Railway Company (KCS) and operate approximately 165.8 miles of rail lines extending: (1) between a point 1,600 feet south of Highway 80 near Gibsland, La., and milepost B-192 near Pineville, La.; (2) on the Sibley Branch between milepost 83.5, at Sibley, La., and milepost 78.8 at Minden, La.; (3) between milepost 49.6 near Cullen, La., and milepost 78.8 at Minden; and (4) between milepost 78.8 at Minden and milepost B-102 near Bossier, La., on the Hope Subdivision (the Lines).² LAS and KCS executed amendments on July 20, 2020 (Amendments), to the Amended and Restated Lease Agreements from 2016 (Restated Leases)³ currently governing LAS's lease and operation of the Lines. The Amendments extend the terms of the Restated Leases to November 30, 2034. (Verified Notice 2-3.)

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).

² According to the verified notice, LAS has operated the Lines since 2005. (Verified Notice 3 (citing La. S. R.R.—Lease & Operation Exemption—Kan. City S. Ry., FD 34751 (STB served Oct. 7, 2005)); La. S. R.R.—Lease Exemption Containing Interchange Commitment—Kan. City S. Ry., FD 35983 (STB served Feb. 5, 2016).

³ Copies of the Restated Leases and Amendments with the interchange commitments were submitted under seal. See 49 C.F.R. § 1150.43(h)(1).

In its verified notice, LAS certifies that its revenues currently exceed \$5 million. (Id. at 5.) Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require LAS, at least 60 days before the exemption becomes effective, 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. However, LAS has filed a petition for waiver of those notice requirements.

Notice of LAS's lease and operation exemption was served and published in the Federal Register on February 26, 2021 (86 Fed. Reg. 11,821). The published notice announced that the Board would establish the effective date of the exemption in a separate decision on the waiver request.

In its petition for waiver, LAS argues that the labor notice requirements are unnecessary, as the proposed transaction would maintain the operational status quo in effect since the commencement of LAS's operations in 2005 and the continuation of LAS operations would not affect the employees of LAS or KCS. LAS states that no LAS or KCS jobs would be abolished or relocated as a result of the proposed transaction, and that the proposed transaction would have no effect on any KCS employees, as there have been no KCS-staffed operations, track maintenance, or dispatching on the Lines, since 2005. (Pet. 3.) No opposition to this waiver request has been filed.

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. The Board takes seriously the notice requirements, but it does not appear that the purpose behind the requirements would be thwarted if the requested waiver is granted in this case.

The record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirements here. Specifically, LAS employees would continue to provide the same service and maintenance they have provided since 2005, and KCS employees have performed no work on the Lines since then. Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. Accordingly, LAS's lease and operation exemption, unless stayed, will become effective on March 14, 2021, the effective date under the Board's rules absent the notice requirement. See, e.g., N.C. & Va. R.R., Chesapeake & Albemarle R.R. Div.—Lease Amendment & Operation Exemption Including Interchange Commitment—Norfolk S. Ry., FD 36252, slip op. at 2 n.3, 3 (STB served Dec. 14, 2018).

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

It is ordered:

1. LAS's request for waiver is granted.
2. LAS's exemption will be effective on March 14, 2021, unless stayed.
3. This decision is effective on its date of service.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.