

SERVICE DATE – DECEMBER 29, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36558

SAVANNAH PORT TERMINAL RAILROAD, INC.—OPERATION EXEMPTION—
GEORGIA PORTS AUTHORITY

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

Digest:¹ This decision waives a 60-day advance labor notice requirement and allows Savannah Port Terminal Railroad, Inc., to operate approximately one mile of common carrier track owned by the Georgia Ports Authority (GPA) within the GPA facility known as the Garden City Terminal on or after December 30, 2021.

Decided: December 27, 2021

On November 30, 2021, Savannah Port Terminal Railroad, Inc. (SAPT), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to operate approximately one mile of common carrier track owned by the Georgia Ports Authority (GPA) within the GPA facility known as the Garden City Terminal (GCT) (the Line). The Line has no mileposts.

SAPT states that it currently holds common carrier authority to operate the Line through a 1998 easement agreement with GPA. (Verified Notice 2.) SAPT further states that it has entered into an Operating Agreement with GPA pursuant to which SAPT will operate the Line, replacing the 1998 easement agreement and certain other agreements.² (Id. at 4.)

In its verified notice, SAPT certifies that its revenues currently exceed \$5 million. (Id. at 5.) Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require SAPT, 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, SAPT has requested a waiver of those notice requirements. (Verified Notice 6-7.)

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 SAPT states that, under the Operating Agreement, it will also operate an additional approximately 34 miles of track within the GCT and GPA’s new Mason Mega-rail Terminal as yard and side tracks.

In its request for waiver, SAPT argues that the labor notice requirements are unnecessary because the proposed transaction would not result in changes in carrier operations on the Line and SAPT would continue to be the lessee operator of the Line. (Id. at 7.) Furthermore, SAPT states that GPA is not a rail carrier and, therefore, has no railroad employees who will be affected as a result of the proposed transaction. (Id.) No opposition to this waiver request has been filed.

Notice of SAPT's exemption was served and published in the Federal Register on December 16, 2021 (86 Fed. Reg. 71,534). 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. Because the record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirement in this case, 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 here. SAPT states that none of its employees would be affected because SAPT is the current operator of the Line and has been since 1998, and because there would be no operational changes on the Line as a result of the proposed transaction.

Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. Accordingly, SAPT's acquisition exemption, unless stayed, will become effective on December 30, 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 Amend. & 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. SAPT's request for waiver is granted.
2. SAPT's exemption will be effective on December 30, 2021, unless stayed.
3. This decision is effective on its date of service.

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