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SERVICE DATE—DECEMBER 27, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36723

SAVANNAH INDUSTRIAL LOGISTICS, LLC—CONSTRUCTION EXEMPTION—IN
EFFINGHAM COUNTY, GA

Docket No. FD 36723 (Sub-No. 1)

SAVANNAH INDUSTRIAL TRANSPORTATION, LLC—LEASE AND OPERATION
EXEMPTION—LINE OF SAVANNAH INDUSTRIAL LOGISTICS, LLC IN EFFINGHAM
COUNTY, GA¹

Decided: December 26, 2023

On September 28, 2023, Savannah Industrial Logistics, LLC (SIL), filed a petition under 49 U.S.C. § 10502 for an after-the-fact exemption from the prior approval requirements of 49 U.S.C. § 10901 for the prior construction of a rail line (the Track) located in an industrial park (the Facility) sited near Rincon, in Effingham County, Ga. (Pet. 1.) The Track, which has no mileposts, extends from a connection with Norfolk Southern Railway Company (NSR) near NSR milepost 16.6, to a connection with CSX Transportation, Inc. (CSXT), near CSXT milepost S484.0, a distance of approximately 11,404 feet.² (Pet. 4.)

¹ These proceedings are not consolidated. A single decision is being issued for administrative convenience.

² In a related docket, the Board determined that the Track was being operated as a rail line within the Board's jurisdiction, but that SIL had failed to seek Board authority under 49 U.S.C. § 10901 or 10502 prior to the Track's construction. See Savannah Indus. Transp., LLC—Operation Exemption—in Effingham Cnty., Ga., FD 36489, slip op. at 2-3 (STB served Aug. 1, 2023). The Board, therefore, directed SIL to file for construction authority after the fact. The Board further noted that, because the Track was being operated as a rail line within the Board's jurisdiction, Savannah Industrial Transportation, LLC (SIT) should have sought Board authority prior to acquiring the Track through its lease agreement with SIL. Id. at 6. As such, in addition to the operating authority SIT sought in that petition the Board instructed SIT to seek acquisition authority after the fact. Id. The Board, however, exempted SIT's rail operations on the Track from the prior approval requirements of 49 U.S.C. § 10901 for the limited purpose of allowing SIT to continue providing common carrier service to customers that were, as of August 1, 2023, receiving rail service at the Facility from SIT for the duration of the Board's consideration of SIL's and SIT's anticipated construction and acquisition proceedings. Id. at 4, 6-7.

In the same filing, SIT, an affiliate of SIL, petitioned the Board for an after-the-fact exemption from the prior approval requirements of 49 U.S.C. § 10901 to lease and operate the Track pursuant to a lease with SIL. (See Pet. 2, Sept. 28, 2023, Savannah Indus. Transp.—Lease & Operation Exemption—Line of Savannah Indus. Logistics in Effingham Cnty., Ga., FD 36723 (Sub-No. 1).) SIT and SIL are each holdings of OmniTRAX Holdings Combined, Inc. (Id. at Pet. 2 n.1.)

According to SIL, an exemption from 49 U.S.C. § 10901 under 49 U.S.C. § 10502 for after the fact authority for the Track construction project would, among other things, ensure the development and continuation of a sound rail transportation system by fostering effective competition among rail carriers and with other modes to meet the needs of the public. (Pet. 8.) Specifically, SIL states that an exemption would foster continued alternative transportation options for all current and future tenants at the Facility who are, and will be, afforded nearby connections to Class I carriers NSR and CSXT—thereby maintaining and enhancing competition among rail carriers and with other transportation modes. (Id.)

SIL further argues that an application for the construction and operation of the Track under 49 U.S.C. § 10901 is not necessary to carry out the rail transportation policy (RTP) at 49 U.S.C. § 10101, that an exemption for the Track project would promote several provisions of the RTP, and that requiring an application under 49 U.S.C. § 10901 is not necessary to protect shippers from an abuse of market power. (Pet. 8-10.)

The petition for exemption in Docket No. FD 36723 seeking construction authority raises issues that require consideration by the Board, and an environmental and historic review will also be required. By this decision, the Board is instituting a proceeding under 49 U.S.C. § 10502(b). In light of that decision, a proceeding will also be instituted in Docket No. FD 36723 (Sub-No. 1). The Board will, however, hold SIT's petition seeking acquisition and operating authority in abeyance during the pendency of the construction proceeding.

It is ordered:

1. Under 49 U.S.C. § 10502(b), a proceeding is instituted in Docket Nos. FD 36723 and FD 36723 (Sub-No. 1).
2. SIT's petition seeking acquisition and operating authority will be held in abeyance during the pendency of the construction proceeding.
3. This decision is effective on its date of service.

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