

SERVICE DATE – DECEMBER 17, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36863

SOUTH CENTRAL FLORIDA EXPRESS, INC.—TRACKAGE RIGHTS RENEWAL
EXEMPTION—FLORIDA EAST COAST RAILWAY, LLC

Decided: December 17, 2025

On November 18, 2025, South Central Florida Express, Inc. (SCFE), filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for after-the-fact authority to renew and revise certain overhead and local trackage rights previously granted to it by Florida East Coast Railway Company (FEC), now known as Florida East Coast Railway, LLC (FECR).

The verified notice states that, in 1998, SCFE acquired from FEC overhead trackage rights over a line of railroad extending between milepost K-0.0, near Ft. Pierce, Fla., and milepost K-15.0, and local trackage rights extending between milepost K-15.0 and milepost K-70.9 (the Line).¹ (Verified Notice 1-2); see also S. Cent. Fla. Express, Inc.—Trackage Rts. Exemption—Fla. E. Coast Ry., FD 33562, slip op. at 1 (STB served Mar. 11, 1998). SCFE states that, in 2016, as the end of the 20-year term of its 1998 agreement approached, FECR² and SCFE entered into a first amendment to the trackage rights agreement, effective December 6, 2016 (the First Amendment). (Verified Notice 2.) According to SCFE, the First Amendment extended the term of the trackage rights agreement and modified the rights granted to SCFE. (*Id.*) Specifically, under the First Amendment, (1) SCFE was granted nonexclusive local trackage rights to operate its trains carrying certain carload products, operated by SCFE’s crews, over the Line; (2) SCFE’s local trackage rights would include the right to develop new customers between milepost K-15.0 and milepost 70.9; and (3) SCFE’s use of the Line would be in common with FECR and other users permitted by FECR, along with other conditions. (*Id.*) SCFE notes, however, that “due to inadvertent error,” SCFE did not seek exemption authority for the renewal of the trackage rights in 2016. (Verified Notice 2.) SCFE now seeks after-the-fact authority to correct its error but notes that it is “not necessarily” seeking retroactive authority. (*Id.* at 2-3.)

¹ SCFE’s verified notice of exemption identifies milepost K-70.9 as the endpoint for SCFE’s local trackage rights. The Board’s notice of exemption served in 1998, however, identifies the endpoint for SCFE’s local trackage rights as milepost K-70.4.

² According to the verified notice, the original trackage rights agreement was between SCFE and FEC. (Verified Notice 1 n.1.) The verified notice states that FEC was merged into FECR, which was assigned the former’s obligations under the agreement. (*Id.*)

To qualify for an exemption under 49 C.F.R. § 1180.2(d), a railroad must file a verified notice of the transaction with the Board that includes information required under the Board's regulations. 49 C.F.R. § 1180.4(g); see also 49 C.F.R. § 1180.6(a)(1)(i)-(iii), (a)(5)-(6), (a)(7)(ii). Here, SCFE will be given the opportunity to file supplemental information to correct certain errors or omissions identified in its verified notice of exemption.

First, pursuant to 49 C.F.R. § 1180.6(a)(5)-(6), a railroad seeking a trackage rights exemption under 49 C.F.R. § 1180.2(d)(7) must submit: (1) a list of the State(s) in which any part of the property of each applicant carrier is situated, and (2) a map indicating clearly the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. In response, SCFE states only that "[t]he subject rail line is located in Florida," and provides a map that shows only the Line. From this response, it is unclear whether SCFE operates in any state(s) other than Florida and whether it owns or operates any additional lines that should be depicted on its map. SCFE, therefore, will be directed to file supplemental information to address these points and, if necessary, provide an updated map conforming to the requirements of 49 C.F.R. § 1180.6(a)(6).

Second, while SCFE states that "[n]o employee of SCFE or FEC has been adversely affected by the First Amendment, and so none will be adversely affected by the transaction receiving after-the-fact authority," (see Verified Notice 4), SCFE fails to indicate the level of labor protection to be imposed on the proposed transaction, as required under 49 C.F.R. § 1180.4(g)(1)(i). SCFE will be directed to provide this information.

Third, SCFE's verified notice indicates that the Line is "not in a non-attainment area," and that its "[o]perations since the effective date of the First Amendment have not exceeded" the thresholds set forth in 49 C.F.R. § 1105.7(e)(4) or (5). (Verified Notice 4.) Those provisions, however, call for forward-looking statements, and SCFE's retrospective statement therefore is not determinative of whether the proposed transaction is subject to environmental reporting. SCFE should state whether the exemption is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

Fourth, SCFE provided with its verified notice a copy of the First Amendment with certain commercially sensitive provisions redacted. SCFE also submitted to the Board a copy of its notice with an unredacted copy of the First Amendment, but it did not file a motion for a protective order. The Board's regulations, at 49 C.F.R. § 1104.14(b), require a separate motion for a protective order if a party wants a pleading to be kept confidential. Should SCFE wish materials submitted to the Board in this proceeding to be kept confidential, it must file a motion for such a request.

Finally, SCFE incorporates by reference a copy of its 1998 agreement, noting that the agreement was submitted with its verified notice of exemption in South Central Florida Express, Inc.—Trackage Rights Exemption—Florida East Coast Railway, FD 33562. (Verified Notice 3-4.) However, that verified notice was filed in 1998 and, as such, is less accessible to the public than more recent filings. The copy of the agreement in the Board's records is also redacted. For

these reasons, SCFE will be directed to provide an unredacted copy of the 1998 agreement when it provides the other information requested in this decision.

SCFE will be directed to supplement its verified notice as discussed above by December 31, 2025.

It is ordered:

1. SCFE is directed to file supplemental information as described in this decision by December 31, 2025.

2. This decision is effective on its service date.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.