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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36320]

Mississippi Export Railroad Company—Continuance in Control Exemption—Alabama Export Railroad, Inc.

Mississippi Export Railroad Company (MSE), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Alabama Export Railroad, Inc. (ALE), upon ALE's becoming a Class III rail carrier. ALE is a newly formed noncarrier entity that is wholly owned by MSE.¹

This transaction is related to a concurrently filed verified notice of exemption in Alabama Export Railroad—Lease & Operation Exemption—Illinois Central Railroad, Docket No. FD 36321. In that proceeding, ALE seeks an exemption under 49 C.F.R. § 1150.31 to lease and operate approximately 12.1 miles of railroad line in downtown Mobile, Ala., owned by IC. The rail line extends between Belt Junction at milepost 6.6 and the State Docks at milepost 0.0 on IC's Beaumont Subdivision, and between Belt Junction at milepost 6.6 and Frascati Junction at milepost 1.1 on IC's Frascati Lead (the Line).

¹ MSE states that it, in turn, is owned in part (one-third interest) by Illinois Central Railroad Company (IC) and in part (two-thirds interest) by various individual shareholders.

The earliest this transaction may be consummated is September 15, 2019, the effective date of the exemption.²

According to MSE, it currently owns and operates a 42-mile short line railroad between Evanston and Pascagoula, Miss. In its verified notice and supplement, MSE represents that: (1) the Line to be operated by ALE does not connect with the lines of MSE, and the railroads would not connect with any railroads in their corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect these railroads with each other or with any railroad in their corporate family; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(2).

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because only Class III carriers are involved.

If the 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

² The verified notice was initially submitted on August 12, 2019. On August 16, 2019, MSE filed a supplement certifying that MSE and ALE are the only two railroads in the corporate family. In light of that supplement, August 16, 2019, is deemed the filing date of the verified notice.

exemption. Petitions to stay must be filed no later than September 6, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36320, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on MSE's representative: Eric M. Hocky, Clark Hill, PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103, and Sloane S. Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue, NW, Suite 1300 South, Washington, DC 20004.

According to MSE, this action is excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b).

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

Decided: August 27, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.