

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36174]

Fulton County Railway, LLC—Lease and Operation Exemption—HGS-FCR, LLC

Fulton County Railway, LLC (FCR), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease from HGS-FCR, LLC (HGS-FCR), and operate approximately 55 miles of rail lines located in Atlanta, Ga. (the Lines).¹ The Lines extend: (1) from milepost ANO 855.06, V.S. 3+30, at Fulco Junction, westerly to milepost ANO 858.72, V.S. 196+31; (2) from milepost ANO 858.72, V.S. 196+31 northeasterly to milepost ANO 860.75, V.S. 304+70, at the northeast end of the line; and (3) from V.S. 196+31 = V.S. 0+00 southwesterly to V.S. 208+94 at the southwest end of the line through the Fulco Industrial Park, including the track in the Fulco Yard and the appurtenant sidings, and industrial tracks.

FCR states that in 2004 it entered into an agreement to lease the Lines from CSX Transportation, Inc. (CSXT). See Fulton Cty. Ry—Lease & Operation Exemption—CSX Transp., Inc., FD 34542 (STB served Oct. 14, 2004). It states that HGS-FCR will shortly

¹ By decision served April 13, 2018, the Board held this and four related exemption proceedings in abeyance pending the filing of supplemental information in HGS Railway Holdings, Inc.—Continuance in Control Exemption—HGS-FCR, LLC & HGS-ATN, LLC, Docket No. FD 36180. On April 23, 2018, HGS Railway Holdings, Inc. filed a reply and revised notice of exemption in that docket. The Board is serving and publishing in the Federal Register today notices of the exemptions in all five dockets, thus removing them from abeyance.

enter into an agreement to acquire the Lines from CSXT.² As part of that transaction, CSXT will assign the lease of the Lines by FCR to HGS-FCR.

FCR certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier. FCR further certifies that the annual projected revenue will exceed \$5 million.³ In a letter filed on March 28, 2018, supplementing its notice of exemption, FCR certifies that its lease agreement with HGS-FCR contains no provisions that may limit future interchange with a third-party connecting carrier.

FCR states that it expects to consummate this transaction on or shortly after the effective date of the exemption. The earliest this transaction may be consummated is June 6, 2018, the effective date of the exemption.

If the verified 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 exemption. Petitions for stay must be filed no later than May 30, 2018 (at least seven days before the exemption becomes effective).

² On March 29, 2018, HGS-FCR filed a verified notice of exemption to acquire the Lines from CSXT in HGS-FCR, LLC—Acquisition Exemption—CSX Transportation, Inc., Docket No. FD 36176.

³ On March 19, 2018, FCR certified to the Board that on, March 16, 2018, it posted notice of the transaction at the workplace of the employees on the Lines, and on March 19, 2018, it served a copy of the notice on the national office of the potentially affected employees' labor union as required under 49 CFR § 1150.42(e). However, on March 22, 2018, FCR sought waiver of the 60-day notice requirements. Because the exemption will not become effective until June 6, 2018, FCR's request for waiver will be dismissed as moot.

An original and 10 copies of all pleadings, referring to Docket No. FD 36174, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Karl Morell & Associates, 440 1st Street, N.W., Suite 440, Washington, DC 20001.

According to FCR, this action is excluded from environmental review under 49 C.F.R. § 1105.6(c).

Board decisions and notices are available on our website at WWW.STB.GOV.

Decided: May 18, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.