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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36247]

Florida Gulf & Atlantic Railroad, LLC—Acquisition and Operation Exemption With
Interchange Commitment—CSX Transportation, Inc.

Florida Gulf & Atlantic Railroad, LLC (FGA), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from CSX Transportation, Inc. (CSXT), and to operate, approximately 373 miles of rail line pursuant to a purchase and sale agreement and a freight operating agreement with CSXT. The rail lines to be acquired and operated by FGS consists of the following: (1) the Tallahassee Subdivision between Baldwin, Fla., at or near CSXT milepost SP 653.3, and Chattahoochee, Fla., at or near CSXT milepost SP 842.5; (2) the P&A Subdivision between Chattahoochee, at or near CSXT milepost 00K810.7, and Pensacola, Fla., at or near CSXT milepost 00K651.0; and (3) portions of the Bainbridge Subdivision between Tallahassee, Fla., at or near CSXT milepost SLC 52.0, and Attapulcus, Ga., at or near CSXT milepost SLC 79.0 (collectively, the “Lines”).

As part of this transaction, CSXT will retain limited overhead trackage rights only for the movement of certain CSXT freight traffic, in CSXT’s trains, locomotives, cars, and equipment with CSXT’s own crews over the following segments of the Lines: (1) the Tallahassee Subdivision between the connection with CSXT at Baldwin, at or near CSXT milepost SP 653.3 and Chattahoochee, at or near CSXT milepost SP 842.5; and

(2) the P&A Subdivision between Chattahoochee, at or near CSXT milepost 00K810.7, and the connection with CSXT at Pensacola, at or near CSXT milepost 00K 651.0. In addition, FGA will acquire trackage rights to operate its trains, locomotives, cars and equipment with its own crews, solely for the purposes of conducting interchange with CSXT, on the following segments of CSXT rail lines: (1) CSXT milepost 00K651.0 to milepost 00K 649.0, near Pensacola; and (2) CSXT milepost SP 653.3 to milepost S 653.0, near Baldwin.

This transaction is related to a concurrently filed verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) in RailUSA, LLC & American Rail Partners, LLC—Continuance in Control Exemption—Florida Gulf & Atlantic Railroad, LLC, Docket No. FD 36248, in which RailUSA, LLC, and American Rail Partners, LLC, the direct owner and indirect owner of FGA, respectively, seek Board approval to continue in control of FGA upon FGA's becoming a Class III rail carrier.

As required under 49 C.F.R. § 1150.33(h)(1), FGA has disclosed in its verified notice that the freight operating agreement between FGA and CSXT¹ contains an interchange commitment that affects the interchange with carriers other than CSXT at the interchange points of Chattahoochee and Cottondale, Fla. In addition, FGA has provided

¹ FGA filed a confidential version of the freight operating agreement with its notice of exemption to be kept confidential by the Board under 49 C.F.R. § 1104.14(a) without need for the filing of an accompanying motion for protective order under 49 C.F.R. § 1104.14(b).

the additional information regarding the interchange commitment required by § 1150.33(h)(1).

FGA certifies that its projected annual revenues do not exceed those that would qualify it as a Class III rail carrier. FGA notes, however, that its annual operating revenues will exceed \$5 million. Accordingly, in compliance with 49 C.F.R. § 1150.32(e), FGA certified on November 6, 2018, that, on that day, the required 60-day notice of this transaction was posted at the workplaces of CSXT employees on the Lines and served on the national offices of those employees' unions.

The earliest this transaction may be consummated is January 6, 2019, the effective date of the exemption (30 days after the verified notice was filed).

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 to stay must be filed no later than December 28, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36247, 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 Peter W. Denton, Steptoe & Johnson LLP, 1330 Connecticut Ave., N.W., Washington, DC 20036.

According to FGA, this action is excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic reporting under 49 C.F.R. § 1105.8(b)(1).

Board decisions and notices are available on our website at www.stb.gov.

Decided: December 14, 2018.

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