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SERVICE DATE – APRIL 17, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35110]

Florida Department of Transportation—Acquisition Exemption—Certain Assets of CSX Transportation, Inc.

Florida Department of Transportation (FDOT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from CSX Transportation, Inc. (CSXT) certain physical assets and associated right-of-way, including approximately 61.5 miles of rail line, the Orlando Line, extending between milepost A-749.7 in DeLand, and milepost A-814-1 in Poinciana, Volusia, Seminole, Orange, and Osceola Counties, FL.¹

FDOT states that it will acquire neither the right nor ability to provide or control freight service on the Orlando Line but will develop and operate a commuter rail system on the Orlando Line.² CSXT, according to FDOT, will continue to provide all common

¹ FDOT indicates that, due to a relocation project in Sanford, FL, the distance between milepost A-768 and milepost A-771 is only 749 feet. Accordingly, the actual length of the line is 2.9 miles shorter than indicated by its milepost termini.

² Because, FDOT asserts that it is not acquiring a common carrier obligation to provide freight service, FDOT has also included a motion to dismiss in this proceeding. The motion will be addressed in a subsequent Board decision.

carrier rail freight service over the Orlando Line, retaining an exclusive and perpetual freight operating easement.³

FDOT will also obtain an option to acquire from CSXT the physical assets and associated right-of-way of CSXT's Aloma Spur extending from a connection with the Orlando Line at milepost AU-766.0 in Sanford, to milepost AU-771.8, near Airport Boulevard and the Orlando/Sanford International Airport, a distance of approximately 5.8 miles, and CSXT's DeLand Spur extending from a connection with the Orlando Line at milepost ASE-750.3 (DeLand Junction) to milepost ASE-753.3, near downtown DeLand, a distance of approximately 3.0 miles. FDOT does not intend to acquire the Aloma Spur and DeLand Spur at this time, but they are included so that any jurisdictional determination made by the Board pursuant to FDOT's motion to dismiss will also cover those tracks.⁴

The transaction is scheduled to take place on June 30, 2009 (after the May 3, 2009 effective date of the exemption).

³ Florida Central Railroad Company, Inc., an existing tenant of CSXT, will continue to operate over a portion of the Orlando Line for purposes of interchanging traffic with CSXT, and the National Railroad Passenger Corporation, also an existing tenant of CSXT, will continue to operate four daily passenger trains over the length of the Orlando Line.

⁴ FDOT does not include a time frame for any future transactions. FDOT is put on notice that a substantial lag time between the publication of this notice and any future transactions could put in doubt the validity of the notice requirements pertaining to any new transactions. Accordingly, the Board reserves the right to require any future transactions to be noticed in the Federal Register before the Board can entertain a motion to dismiss.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding 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 transaction. Petitions for stay will be due no later than April 24, 2009 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings referring to STB Finance Docket No. 35110 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 William C. Sippel, Fletcher & Sippel, LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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

Decided: April 10, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary