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SERVICE DATE – MARCH 25, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34655

GEORGIA & FLORIDA RAILNET, INC.—ACQUISITION AND OPERATION
EXEMPTION—GEORGIA DEPARTMENT OF TRANSPORTATION

[REQUEST FOR WAIVER OF 49 CFR 1150.42(e)]

Decided: March 24, 2005

We are granting a request of Georgia & Florida RailNet, Inc. (GFRR) for waiver of the requirements of 49 CFR 1150.42(e)¹ that it give 60-days advance notice to those employees who may be affected by its plan to acquire and operate over a permanent irrevocable rail easement on property to be acquired by the Georgia Department of Transportation (GDOT).

On February 10, GFRR, a Class III rail carrier, filed a verified notice of exemption under 49 CFR 1150.41 to acquire and to operate as a rail common carrier over a permanent irrevocable rail easement on property to be acquired by GDOT from the City of Willacoochee, GA. The subject track extends from Nashville, GA, at milepost 57.2 to Willacoochee, GA, at milepost 73.8, a distance of 16.6 miles. GFRR states that it has been operating over the track as exempt industrial trackage since it first acquired its lines of railroad in 1999. GFRR has filed with its verified notice of exemption a waiver request and a letter certifying that it has provided advance notice pursuant to 49 CFR 1150.42(e). GFRR states that the parties would like to consummate the transaction on or

¹ 49 CFR 1150.42(e) provides:

If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds \$5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.

before April 8, 2005, so that GDOT can begin to provide funding for rehabilitating the line.

GFRR requests a waiver of our requirements at 49 CFR 1150.42(e) to permit the exemption it is seeking in this proceeding to become effective without providing the 60-day advance notice to the employees on the affected rail line or to the national offices of the labor unions of those employees. GFRR believes that no employees will be affected by the transaction because the same employees who currently operate and maintain the line will continue to do so after GDOT acquires the line and GFRR begins operating as a rail common carrier. The petitioner also notes that there will be no changes in working conditions, work rules, rates of pay, or benefits resulting from this transaction.

Moreover, GFRR states that it has already complied with the essence of the notice requirement. The petitioner certifies that by February 8, 2005, the employees were given a copy of a notice of the transaction and that the notice was posted at employee workplaces on the line. Lastly, GFRR states that because none of the employees are organized, it is unnecessary to contact the national offices of any labor unions.

DISCUSSION AND CONCLUSIONS

The purpose of our notice requirement at 49 CFR 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.² The Board takes seriously the requirements of the rule, but it does not appear that the purpose behind the notice requirement will be thwarted by the requested waiver in this situation. Here, no employees will be adversely affected by the transaction. This transaction will only change the rail common carrier status of GFRR's operations over the subject trackage once GDOT acquires the trackage. Moreover, GFRR has posted notices at appropriate workplaces and has distributed these notices to those who work on the line almost for the full 60 days before the intended consummation date of April 8, 2005. Accordingly, we will grant the requested waiver.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. GFRR's request for waiver is granted.

² See Acq. of R. Lines Under 49 U.S.C. 10901 & 10902—Advance Notice, 2 S.T.B. 592 (1997).

2. This decision is effective on its date of service.

By the Board, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams
Secretary