

Lindholm, Program Manager, Office of Air, Rail and Transit, 700 East Broadway Avenue, Pierre, SD 57501.

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Decided: January 11, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 02-1387 Filed 1-17-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34144]

Georgia Southwestern Railroad, Inc.—Sale and Lease Exemption Within a Corporate Family Transaction—South Carolina Central Railroad, Inc.

Georgia Southwestern Railroad Inc. (GSWR) and South Carolina Central Railroad, Inc. (SCCR), both Class III rail carriers, have jointly filed a notice of exemption under 49 CFR 1180.2(d)(3).¹ The exemption transaction involves what GSWR describes as a corporate family transaction whereby GSWR will sell to SCCR, and SCCR will lease back to GSWR, 101.27 miles of rail lines (the Lines), located in Georgia: (1) Between milepost SLB 0.38 near Columbus and milepost SLB 23 near Cusseta; (2) between Valuation Station 41+60 and Valuation Station 107+35 near Columbus; (3) between Valuation Station 0+00 and Valuation Station 41+61 near Columbus; (4) between milepost SLC 91.68 near Bainbridge and milepost SLC 160.0 near Cuthbert; and (5) between milepost 63.55 near Dawson and milepost 72.88 near Sasser. In addition, GSWR will acquire the operating rights of SCCR for 13.62 miles of rail line between milepost 86.5 at Albany and milepost 72.88 at Sasser.² The 13.62-mile line was converted to a trail, in accordance with an interim trail use arrangement, on October 16, 1997.

The transaction was scheduled to be consummated on or shortly after December 28, 2001, the effective date of the exemption.

This transaction is within a corporate family of the type specifically exempted from prior approval under 49 CFR

1180.2(d)(3). The parties stated that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside of the corporation family.

The purpose of the transaction is to simplify the arrangements for the operation of the Lines. SCCR will own the Lines and GSWR will operate the Lines. The proposed transaction will improve the financial viability of GSWR and SCCR and they will benefit from the purchase price and reduced operating costs, while still providing rail service.

This transaction is related to a simultaneously filed notice of exemption in STB Finance Docket No. 34057, *State of Georgia Department of Transportation—Acquisition Exemption—South Carolina Central Railroad, Inc.*, wherein the Georgia Department of Transportation (GDOT)³ is acquiring certain railroad assets of SCCR, including the above-noted 101.27 miles of railroad lines, but not including the right to conduct common carrier freight operations over the Lines.⁴

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

If the 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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34144, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Gary A.

³ GDOT simultaneously filed a motion to dismiss the notice of exemption on jurisdictional grounds. That motion will be addressed by the Board in a separate decision.

⁴ Concurrently with the closing of the transaction between SCCR and GSWR, SCCR will sell the Lines to GDOT, and GDOT will acquire only the physical assets. GDOT will not hold or perform common carrier service. GSWR will provide common carrier service and SCCR will retain a permanent easement to provide residual common carrier service if GSWR or an assignee of GSWR is unable to provide service over the Lines.

Laakso, Vice President Regulatory Counsel, RailAmerica, Inc., 5300 Broken Sound Boulevard NW., Second Floor, Boca Raton, FL 33487; and Louis E. Gitomer, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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Decided: January 11, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34057]

State of Georgia, Department of Transportation—Acquisition Exemption—South Carolina Central Railroad, Inc.

State of Georgia, Department of Transportation (GDOT), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31¹ to acquire from the South Carolina Central Railroad, Inc. (SCCR), a Class III rail carrier, but not to operate, 101.27 miles of rail lines (the Lines) located in Georgia: (1) Between milepost SLB 0.38 near Columbus and milepost SLB 23 near Cusseta; (2) between Valuation Station 41+60 and Valuation Station 107+35 near Columbus; (3) between Valuation Station 0+00 and Valuation Station 41+61 near Columbus; (4) between milepost SLC 91.68 near Bainbridge, and milepost SLC 160.0 near Cuthbert; and (5) between milepost 63.55 near Dawson and milepost 72.88 near Sasser.

GDOT, SCCR, and RailAmerica, Inc., the parent company of SCCR, have entered into an agreement whereby GDOT will acquire only the physical assets in the Lines, but not the right to conduct common carrier freight operations over the Lines. SCCR and its affiliate, Georgia Southwestern Railroad, Inc. (GSWR) have entered into a separate agreement for GSWR to sell the Lines to SCCR, and for SCCR to lease the Lines back to GSWR. That related transaction is the subject of a simultaneously filed notice of exemption in STB Finance Docket No. 34144, *Georgia Southwestern Railroad, Inc.—Sale and Lease Exemption Within*

¹ GDOT simultaneously filed a motion to dismiss the notice of exemption on jurisdictional grounds. That motion will be addressed by the Board in a separate decision.

¹ GSWR and SCCR are subsidiaries of RailAmerica, Inc., a noncarrier.

² See *Georgia Great Southern Division, South Carolina Central Railroad Co., Inc.—Abandonment and Discontinuance Exemption—Between Albany and Dawson, in Terrell, Lee and Dougherty Counties, GA*, Docket No. AB-389 (Sub-No. 1X) (STB served Aug. 16, 1996).