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SERVICE DATE - JUNE 24, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34510]

Watco Companies, Inc.–Continuance in Control Exemption–Kaw River Railroad, Inc.

Watco Companies, Inc. (Watco), a noncarrier, has filed a verified notice of exemption to continue in control of Kaw River Railroad, Inc. (KRR), upon KRR's becoming a Class III rail carrier.

The transaction was scheduled to be consummated on or shortly after June 1, 2004, the effective date of the exemption.

The transaction is related to STB Finance Docket No. 34509, Kaw River Railroad, Inc.–Acquisition and Operation Exemption–The Kansas City Southern Railway Company, wherein KRR seeks to acquire by: (1) lease from The Kansas City Southern Railway Company (KCS) and operate approximately 7.5 miles of rail lines in Kansas City, KS; (2) sublease from KCS and operate approximately 4.5 miles of rail lines in Kansas City, KS, and Kansas City, MO, that are owned by Kansas City Terminal Railway Company (KCT); and (3) assignment from KCS operating authority over approximately 6.2 miles of KCT rail lines in order to access the leased KCS and KCT trackage.

Watco owns 100% of the issued and outstanding stock of KRR, and controls through stock ownership and management eight other Class III rail carriers: South Kansas and Oklahoma Railroad Company (SKO), Palouse River & Coulee City Railroad,

Inc. (PRCC), Timber Rock Railroad, Inc. (TIBR), Stillwater Central Railroad (SLWC), Eastern Idaho Railroad, Inc. (EIRR), Kansas & Oklahoma Railroad, Inc. (K&O), Pennsylvania Southwestern Railroad, Inc. (PSWR), and Great Northwest Railroad, Inc. (GNR).<sup>1</sup>

As pertinent here, SKO's lines are located in the southeastern portion of Kansas and southwestern portion of Missouri, and are a substantial distance from the lines being leased by KRR. K&O's Kansas lines are located in the central and western portions of the State and also are a substantial distance from the lines being leased and subleased by KRR.

Watco states that: (i) the rail lines of KRR will not connect with any of the lines of the railroads under its control or within its corporate family, (ii) the transaction is not a part of a series of anticipated transactions that would connect the rail lines being leased and subleased by KRR with any other railroad in its corporate family, and (iii) the transaction does not involve a Class I railroad. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

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

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<sup>1</sup> SKO's lines are located in Missouri, Kansas, and Oklahoma; PRCC's lines are located in Washington, Oregon, and Idaho; TIBR's lines are located in Texas and Louisiana; SLWC's lines are located in Oklahoma; EIRR's lines are located in Idaho; K&O's lines are located in Kansas and Colorado; PSWR's line is located in Pennsylvania; and GNR's lines are located in Idaho and Washington.

Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34510, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Suite 225, 1455 F Street, N.W., Washington, DC 20005.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: June 18, 2004.

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

Vernon A. Williams

Secretary