

BEFORE THE

SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35889

ENTERED

Office of Proceedings

December 18, 2014

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Public Record

ALABAMA SOUTHERN RAILROAD, L.L.C.  
--LEASE AND OPERATION EXEMPTION  
INCLUDING INTERCHANGE COMMITMENT--  
THE KANSAS CITY SOUTHERN RAILWAY COMPANY

PETITION FOR WAIVER OF THE NOTICE  
REQUIREMENTS OF 49 C.F.R. § 1150.42(e)

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L.L.C.

Dated: December 18, 2014

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Alabama Southern Railroad, L.L.C. (“ABS”), a Class III rail carrier, hereby petitions the Surface Transportation Board (“Board”) to waive the employee notice requirements of 49 C.F.R. § 1150.42(e).

ABS is concurrently filing with the Board a notice of exemption under 49 C.F.R. § 1150.41 to permit ABS to continue to lease and operate approximately 85.6 miles of rail lines located in Mississippi and Alabama from Kansas City Southern Railway Company (“KCS”). The rail lines that will continue to be leased by ABS are located between: (1) Milepost 17.0, near Columbus, MS, and Milepost 78.9, near Tuscaloosa, AL, on the Tuscaloosa Subdivision; (2) Milepost 0.0, at Tuscaloosa, AL, and Milepost 9.3, near Fox, AL, on the Warrior Branch; and (3) Milepost 443.5, at Brookwood Jct., AL, and Milepost 429.1, at Brookwood, AL, on the Brookwood Branch (the “Lines”). ABS leased the Lines from KCS in 2005 and since that time has been the sole operator over the Lines. *See* STB Finance Docket No. 34754, *Alabama*

*Southern Railroad, Inc. – Lease and Operation Exemption – The Kansas City Southern Railway Company* (not printed), served December 2, 2005. In addition, ABS has performed all of the maintenance on the Lines since 2005.

ABS's current revenues exceed \$5 million thus invoking the employee notice requirements of Section 1150.42(e). The purpose underlying the notice requirement, however, would not be thwarted by waiver in this proceeding. The purpose of the notice requirement is to ensure that rail labor unions and employees working on a line being transferred are given adequate notice of the transaction. *See Acq. Of R. Lines Under 49 U.S.C. 10901 & 10902 – Advance Notice*, 2 S.T.B. 592 (1997). In adopting the notice requirement, the Board specifically recognized that “situations may occur necessitating acquirer requests for waiver of the 60-day notice provision....” *Id.* at 601.

Here, labor notice would serve no useful purpose. No KCS employee will be affected by the lease because no KCS employee has performed operations or maintenance on the Lines since 2005. Neither will any ABS employee be affected by the lease because ABS will continue to provide the same service and perform the same maintenance as it has since 2005. Because the transaction will simply extend the term of the lease agreement between ABS and KCS, providing advance labor notice would be a futile act. *See* STB Finance Docket No. 34660, *Georgia Central Railway, L.P. – Acquisition and Operation Exemption – Rail Line of CSX Transportation, Inc.* (not printed), served February 28, 2005; STB Finance Docket No. 34531, *The Indiana Rail Road Company – Acquisition Exemption – Line of Monon Rail Preservation Corporation* (not printed), served November 22, 2004; STB Finance Docket No. 34904, *Dakota, Missouri Valley and Western Railroad, Inc. – Lease and Operation Exemption – Soo Line Railroad Company* (not printed), served July 24, 2006.

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In summary, ABS respectfully requests that the Board waive the requirements of 49 C.F.R. § 1150.42(e).

Respectfully submitted,



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