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SERVICE DATE – MARCH 24, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35456]

Austin Western Railroad, L.L.C.—Lease and Operation Exemption—Capital

Metropolitan Transportation Authority

Austin Western Railroad, L.L.C. (AWRR), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease and operate approximately 165.93 miles of rail lines owned by Capital Metropolitan Transportation Authority (CMTA). The lines are located (1) between milepost -1.13, at or near Giddings, Tex., and milepost 154.1, near Llano, Tex.; and (2) between milepost 0.0, near Fairland, Tex., and milepost 6.5, near Marble Falls, Tex. AWRR will also lease and operate over the Scobee Spur (3.3 miles) and the Burnett Spur (0.93 miles). Except for the 1.13-mile segment between milepost -1.13 and milepost 0.0, which has been out of service, AWRR has been the exclusive freight operator over the lines to be leased since 2007, pursuant to an operating agreement. See Austin W. R.R.—Operation Exemption—Capital Metro. Transp. Auth., FD 35072 (STB served Sept. 14, 2007).

AWRR has certified that its projected annual revenues as a result of this transaction will not result in AWRR becoming a Class II or Class I rail carrier but that its projected annual revenue will exceed \$5 million. Accordingly, AWRR is required, at least 60 days before an exemption is to become effective, to send notice of the transaction

to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. 49 C.F.R. § 1150.42(e).

On March 8, 2011, AWRR certified to the Board that, on March 4, 2011, it posted notice of the transaction at the workplace of the employees on the affected lines, and on March 7, 2011, it served a copy of the notice on the national office of the potentially affected employees' labor union, as required under 49 C.F.R. § 1150.42(e), as well as on the union's local office. However, concurrently with its notice of exemption, AWRR filed a petition for waiver of the 60-day advance labor notice requirement under § 1150.42(e), asserting that, because AWRR has been the freight operator over the involved lines, the transaction will not result in any operational or maintenance changes on the lines. AWRR's waiver request will be handled in a separate decision.

AWRR states that it intends to consummate the transaction on the effective date of this exemption. The Board will establish in the decision on the waiver request the earliest this transaction may be consummated.

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. Petitions for stay must be filed no later than March 31, 2011.

An original and 10 copies of all pleadings, referring to Docket No. FD 35456, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Karl Morell, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

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Decided: March 21, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.