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SERVICE DATE – APRIL 17, 2006

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34849]

Kansas City Southern, The Kansas City Southern Railway Company, and The Texas Mexican Railway Company—Exemption for Transactions Within a Corporate Family

Kansas City Southern (KCS), The Kansas City Southern Railway Company (KCSR), and The Texas Mexican Railway Company (Tex Mex), have filed a verified notice of exemption for a transaction within a corporate family. The transaction involves the assignment to, and acquisition by, KCSR of all of Tex Mex's trackage and operating rights.

The trackage rights agreements and mileposts governing Tex Mex's trackage rights are as follows: (1) an agreement dated June 16, 1997, between Southern Pacific Transportation Company (SP) and Tex Mex, granting Tex Mex trackage rights over SP's tracks between Houston, TX, in the vicinity of SP's milepost 360.42 (Carr Street Connection) and Beaumont, TX, in the vicinity of SP's milepost 282.4; (2) an agreement between Missouri Pacific Railroad Company (MP), SP, and Tex Mex governing tracks between Robstown, TX, and Corpus Christi, TX, and Beaumont, and various tracks in and around Houston, including the following: (a) MP's line between Robstown in the vicinity of MP milepost 141.48 and Placedo, TX, in the vicinity of MP milepost 224.2, (b) MP's line between Corpus Christi in the vicinity of MP milepost 145.59 and Odem,

TX, in the vicinity of MP milepost 132.2, via Savage Lane to MP's Viola Yard; SP's line between Placedo in the vicinity of SP milepost 14.2 and West Junction, TX, in the vicinity of SP milepost 12.6, via Victoria, TX, and Flatonia, TX, (c) SP's line between West Junction in the vicinity of SP milepost 12.6 and T&NO Junction, TX, in the vicinity of SP milepost 4.6, (d) SP's line from West Junction through Bellaire Junction, TX, to Chaney Junction, TX, in the vicinity of SP milepost 2.8, (e) SP's line from Chaney Junction in the vicinity of SP milepost 2.8 to Tower 26 in the vicinity of SP milepost 360.7, via the Houston Passenger station, (f) SP's line from Chaney Junction in the vicinity of SP milepost 2.8 to Tower 26 in the vicinity of SP milepost 360.7, via the Hardy Street yard, (g) MP's line from Settegast Junction, TX, in the vicinity of MP milepost 381.61 to the connection with Houston Belt & Terminal Railway Company (HB&T) at Interstate Junction, TX, in the vicinity of MP milepost 7.60, (h) SP's line from T&NO Junction in the vicinity of SP milepost 4.6 to the connection with PTRRA in the vicinity of Katy Neck (GH&H Junction) in the vicinity of SP milepost 1.3, (i) SP's line from SP milepost 360.7 near Tower 26 to the connection with HB&T at Quitman Street in the vicinity of SP milepost 1.45, (j) MP's line between Gulf Coast Junction, TX, in the vicinity of MP milepost 377.98 and Amelia, TX, in the vicinity of MP milepost 451.4, (k) MP's line between Amelia in the vicinity of MP milepost 451.4 and the connection with SP at Langham Road, TX, in the vicinity of MP milepost 456.7, (l) SP's line between Langham Road in the vicinity of MP milepost 456.7 and Tower 74 in the vicinity of MP milepost 458.8, and (m) MP's line between Tower 74 in the vicinity of

MP milepost 458.8, and (i) the connection with the Kansas City Southern Railway Company (KCS) at GLC Junction, TX, in the vicinity of MP milepost 460.36 (KCS milepost 766.7), and (ii) the connection with KCS at the Neches River Draw Bridge in Beaumont in the vicinity of KCS milepost 766.0; and (3) an agreement between Tex Mex and HB&T governing tracks in Houston, including, but not limited to HB&T's line from Quitman Street in the vicinity of HB&T milepost 4.7 (West Belt Subdivision) to the HB&T connection with Union Pacific Railroad Company (UP) at Gulf Coast Junction in the vicinity of HB&T milepost 4.6 (East Belt Subdivision), a distance of 3.6 miles; and HB&T's line from its connection with SP at T&NO Junction (Tower 81) in the vicinity of HB&T milepost 11.0 (West Belt Subdivision) to HB&T's connection with UP at Interstate Junction in the vicinity of HB&T milepost 7.5 (East Belt Subdivision), a distance of 8.2 miles.

Applicants state that Tex Mex acquired its trackage rights as part of the UP/SP merger and its various related proceedings.<sup>1</sup> Applicants further state that Tex Mex's rights within Houston were further clarified and amended in Houston/Gulf Coast Oversight to provide Tex Mex with a "clear route" through Houston. The purpose of the

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<sup>1</sup> See Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996), aff'd sub nom. Western Coal Traffic League v. STB, 169 F.3d 775 (D.C. Cir. 1999) (UP-SP Merger); Union Pacific/Southern Pacific Merger, STB Finance Docket No. 32760 (Sub-No. 26) (Houston/Gulf Coast Oversight), 3 S.T.B. 1030 (1998).

“clear route” provision was to provide dispatchers with the ability to route a Tex Mex train over any section of Houston switching track as necessary to improve service and alleviate congestion. Further, applicants state that, as a result, not all mileposts and switching tracks over which Tex Mex can operate are specifically delineated within the three agreements.

KCS is a publicly traded, noncarrier holding company, with both rail and non-rail assets. KCS currently controls 3 rail common carriers: (1) KCSR, a Class I carrier that owns and operates approximately 3,100 miles of rail line in ten states; (2) Gateway Eastern Railway Company, a Class III carrier that owns and operates approximately 17 miles of rail line between East Alton and East St. Louis, IL, and the rail and related materials on many of KCSR’s branch lines; and (3) Tex Mex, a Class II carrier.

This notice is related to a concurrently filed notice of exemption in STB Finance Docket No. 34848, The Kansas City Southern Railway Company—Trackage Rights Exemption—The Texas Mexican Railway Company, wherein Tex Mex has agreed to grant local and overhead trackage rights to KCSR to permit KCSR to operate over its entire line of railroad, approximately 157 miles, between milepost 0.0 at Laredo, TX, and milepost 157.0 at Corpus Christi, TX, including access to all sidings, yards and connections thereto.

The parties stated that the transaction was scheduled to be consummated on April 1, 2006. However, on March 29, 2006, the record in this proceeding was supplemented, thereby causing the official filing date to be March 29, 2006. Therefore,

the earliest the transaction could have been consummated was April 5, 2006 (the effective date of the exemption).<sup>2</sup>

This transaction and the transaction in the related notice of exemption are part of an intra-corporate transaction that will allow KCSR to provide single-line service from Kansas City to Laredo, and to market the route as a KCSR route without having to include Tex Mex in the routing or the bill of lading.

This is a transaction within a corporate family of the type exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the KCS corporate family.

As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

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. 34849, 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

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<sup>2</sup> Under 49 CFR 1180.4(g), a railroad must file a verified notice of the transaction with the Board at least one week in advance of consummation, in order to qualify for an

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Decided: April 7, 2006.

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

Vernon A. Williams

Secretary

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exemption under 49 CFR 1180.2(d).