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SERVICE DATE – JANUARY 2, 2015

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35889]

Alabama Southern Railroad, L.L.C.—Lease and Operation Exemption Including  
Interchange Commitment—The Kansas City Southern Railway Company

Alabama Southern Railroad, L.L.C. (ABS), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to continue to lease from The Kansas City Southern Railway Company (KCS) and operate approximately 85.6 miles of rail lines located between: (1) milepost 17.0, near Columbus, Miss., and milepost 78.9, near Tuscaloosa, Ala., on the Tuscaloosa Subdivision; (2) milepost 0.0, at Tuscaloosa and milepost 9.3, near Fox, Ala., on the Warrior Branch; and (3) milepost 443.5, at Brookwood Jct., Ala., and milepost 429.1, at Brookwood, Ala., on the Brookwood Branch (the Lines).<sup>1</sup>

ABS states that it has entered into an amended and restated lease agreement, which will extend the term of the lease until November 30, 2024, and make other minor changes to the lease. ABS also states that it will continue to be the operator of the Lines.

According to ABS, the new agreement between ABS and KCS contains an interchange commitment that affects interchange with carriers other than KCS. ABS

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<sup>1</sup> ABS was granted authority to lease and operate the rail line in Alabama Southern Railroad—Lease & Operation Exemption—The Kansas City Southern Railway, FD 34754 (STB served Dec. 2, 2005).

notes that the affected interchange points are Northport, Ala., Tuscaloosa, Brookwood, and Columbus. As required under 49 C.F.R. § 1150.43(h)(1), ABS provided additional information regarding the interchange commitment.

ABS has certified that its projected annual revenues as a result of this transaction will not result in ABS's becoming a Class II or Class I rail carrier, but that its projected annual revenues will exceed \$5 million. Accordingly, ABS is required, at least 60 days before this 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). ABS asserts that providing the 60-day notice would serve no useful purpose because ABS already operates the Lines.

ABS, concurrently with its verified notice of exemption, filed a petition for waiver of the 60-day advance labor notice requirement under § 1150.42(e), asserting that: (1) no KCS employee will be affected by the lease because no KCS employee has performed operations or maintenance on the Lines since 2005; (2) no ABS employee will be affected by the lease because ABS will continue to provide the same service and perform the same maintenance as it has since 2005; and (3) providing advance labor notice would be a futile act because the transaction will simply extend the term of the lease agreement between ABS and KCS. ABS's waiver request will be addressed in a separate decision.

ABS states that that it expects to consummate the transaction on or shortly after the effective date of this exemption. The Board will establish in the decision on the waiver request the earliest date 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 effectiveness of the exemption. Petitions for stay must be filed no later than January 9, 2015.

An original and 10 copies of all pleadings, referring to Docket No. FD 35889, 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, Suite 225, 655 Fifteenth 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: December 29, 2014.

By the Board, Julia Farr, Acting Director, Office of Proceedings.