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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34042

Watco Companies, Inc.—Continuance in Control Exemption—Kansas & Oklahoma Railroad, Inc.

Watco Companies, Inc. (Watco), a noncarrier, has filed a verified notice of exemption to continue in control of Kansas & Oklahoma Railroad, Inc. (K&O), upon K&O's becoming a carrier.

This transaction is related to two concurrently filed verified notices of exemption: STB Finance Docket No. 34030, Kansas & Oklahoma Railroad, Inc.—Acquisition Exemption—Central Kansas Railway, L.L.C., wherein K&O seeks to acquire most of the rail lines owned or leased and operated by the Central Kansas Railway, L.L.C. (CKR) in the States of Kansas and Colorado; and STB Finance Docket No. 34047, Kansas & Oklahoma Railroad, Inc.—Trackage Rights Exemption—Central Kansas Railway, L.L.C., wherein K&O seeks to acquire temporary overhead trackage rights over a 16-mile rail line, which is to be retained by CKR, in the State of Kansas.

The transaction was expected to be consummated on or shortly after June 1, 2001.

Watco owns and controls five existing Class III rail carriers: South Kansas and Oklahoma Railroad Company (SKO), which operates in the States of Missouri, Kansas, and Oklahoma; Palouse River & Coulee City Railroad, Inc., which operates in the States

of Washington, Oregon, and Idaho; Timber Rock Railroad, Inc., which operates in the States of Texas and Louisiana; Stillwater Central Railroad, which operates in the State of Oklahoma; and Eastern Idaho Railroad, Inc. (EIRR), which operates in the State of Idaho.¹

Watco states that: (i) K&O will not connect with the rail lines of any existing carrier in the Watco corporate family;² (ii) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines being acquired by K&O with any of the carriers controlled by Watco; and (iii) the transaction does not involve a Class I carrier. 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. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

¹ Watco's control of EIRR is the subject of a verified notice of exemption in Watco Companies, Inc.—Control Exemption—Eastern Idaho Railroad, Inc., STB Finance Docket No. 34045.

² According to the verified notice, SKO operates as a non-exclusive agent for the Southern Pacific Transportation Company (SP) (now merged into Union Pacific Railroad Company) over SP's trackage rights on a rail line owned and operated by The Burlington Northern and Santa Fe Railway Company (BNSF) between Hutchinson and Winfield, KS. SKO neither performs any operations on the BNSF line in its own account nor holds itself out to be an operator over the BNSF line.

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. 34042, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: June 5, 2001.

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

Vernon A. Williams

Secretary