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SERVICE DATE – DECEMBER 23, 2008

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35163]

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: (1) KCSR's acquisition by lease and operation of Tex Mex's right-of-way and rail line extending between milepost 2.5 (near Rosenberg, TX) and milepost 87.0 (near Victoria, TX); and (2) the assignment to KCSR of Tex Mex's overhead trackage rights over certain rail lines of Union Pacific Railroad Company (UP) (a) between mileposts 0.0 and 2.5 (near Rosenberg), and (b) between mileposts 87.0 and 90.8 (near Victoria), along with Tex Mex's rights to interchange with BNSF Railway Company at Rosenberg.¹

KCS is a privately held 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 3,226 miles of rail line in ten states; (2) Gateway Eastern Railway Company, a Class III carrier that owns and operates approximately

¹ The rail line segment between mileposts 2.5 and 87.0 is owned by Tex Mex, and the segments between mileposts 0.0 and 2.5 and mileposts 87.0 and 90.8 are owned by UP.

17 miles of rail line between East Alton and East St. Louis, IL; and (3) Tex Mex, a Class II carrier that owns approximately 157 miles of rail line between Laredo and Corpus Christi, TX, and approximately 84.5 miles of rail line between Rosenberg and Victoria (including overhead trackage rights over UP's line between mileposts 0.0 and 2.5 and between mileposts 87.0 and 90.8), and that possesses overhead trackage rights over UP's rail lines between Beaumont, Houston, and Corpus Christi, TX.

The transaction is expected to be consummated on January 7, 2009 (30 days after the exemption was filed).

As a result of this transaction, KCSR will possess sufficient rights to operate and provide service over a contiguous rail line bounded by Kansas City, MO, at the north end and Laredo, TX, at the south end. According to applicants, the transaction will reduce operating costs, improve efficiency, and enable KCSR to provide seamless service over the various parts of its rail system.

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 the lease and operation will be protected by the conditions set forth in Mendocino Coast Ry., Inc.—Lease and Operate, 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980), as clarified in Wilmington Term. RR, Inc.—Pur. and Lease—CSX Transp., Inc., 6 I.C.C.2d

799, 814-26 (1990). Any employees adversely affected by the assignment of trackage rights 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. Petitions for stay will be due no later than December 31, 2008 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35163, 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 applicants' representatives, William A. Mullins, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037, and W. James Wochner, P.O. Box 219335, Kansas City, MO 64121.

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Decided: December 16, 2008.

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

Anne K. Quinlan

Acting Secretary