

38211

SERVICE DATE – JULY 27, 2007

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35064]

Watco Companies, Inc., and Watco Transportation Services, Inc.—Continuance in Control
Exemption—Michigan Central Railway, LLC

Watco Companies, Inc. (Watco Companies) and its wholly owned subsidiary, Watco Transportation Services, Inc. (Watco Transportation) (collectively, Watco), both noncarriers, jointly have filed a verified notice of exemption to continue in control of Michigan Central Railway, LLC (Michigan Central), upon Michigan Central's becoming a Class II rail carrier through its proposed acquisition and operation of certain rail lines in Michigan and Indiana. Michigan Central will be controlled directly by Watco Transportation, with a 67% membership interest, and indirectly by Watco, while Norfolk Southern Railway Company (NSR) will have a noncontrolling 33% membership interest.¹

¹ Watco has filed a copy of the First Amended and Restated Agreement into which Watco Transportation, NSR, and Michigan Central will enter in connection with the consummation of the proposed control transaction and related transactions referenced in this notice. The agreement provides for the independent management of Michigan Central, according to Watco, under Watco's control.

This transaction is related to a petition for exemption for the acquisition and operation of these rail lines concurrently filed in STB Finance Docket No. 35063, Michigan Central Railway, LLC–Acquisition and Operation Exemption–Lines of Norfolk Southern Railway Company. In that proceeding, Michigan Central seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to acquire and operate some 299 miles of rail line owned and operated by NSR, and some 85.5 miles of trackage rights, in Michigan and Indiana.² In the proposed acquisition, NSR will contribute these rails lines, trackage rights, and related assets to Michigan Central, subject to certain traffic restrictions, in exchange for its 33% interest. Watco Transportation will contribute over time \$18 million in cash and locomotives to Michigan Central in exchange for its controlling 67% interest.³

This transaction also is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35065, Norfolk Southern Railway Company–Trackage Rights Exemption–Michigan Central Railway, LLC. There, Michigan Central has agreed to grant limited local trackage rights to NSR in Michigan and Indiana.

² In STB Finance Docket No. 35063, Michigan Central also has filed a petition to revoke the otherwise applicable class exemption at 49 CFR 1150.31 for the acquisition and operation of rail lines by a noncarrier and a proposed procedural schedule.

³ A redacted version of the Transaction Agreement by and among NSR, Michigan Central and Watco Transportation was filed with the petition for exemption in STB Finance Docket No. 35063. The full version of the Transaction Agreement was concurrently filed under seal along with a motion for protective order.

The parties intend to consummate the transaction after the Board has issued a final decision granting the petition for exemption in STB Finance Docket No. 35063.

Watco currently controls 16 Class III rail carriers: South Kansas and Oklahoma Railroad Company, Palouse River & Coulee City Railroad, Inc., Timber Rock Railroad, Inc., Stillwater Central Railroad, Inc., Eastern Idaho Railroad, Inc., Kansas & Oklahoma Railroad, Inc., Pennsylvania Southwestern Railroad, Inc., Great Northwest Railroad, Inc., Kaw River Railroad, Inc., Mission Mountain Railroad, Inc., Mississippi Southern Railroad, Inc., Yellowstone Valley Railroad, Inc., Louisiana Southern Railroad, Inc., Arkansas Southern Railroad, Inc., Alabama Southern Railroad, Inc., and Vicksburg Southern Railroad, Inc.⁴

Watco represents that: (1) the rail lines to be acquired by Michigan Central do not connect with any other railroads in the Watco corporate family; (2) these continuance in control is not part of a series of anticipated transactions that would connect these railroads with each other or any other railroad in the Watco corporate family; and (3) the transaction does not involve a Class I rail 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. Because the transaction involves the control of one Class II and one or more Class III rail

⁴ A former Watco Class III railroad, the Appalachian & Ohio Railroad, Inc., was acquired by Four Rivers Transportation, Inc. See Four Rivers Transportation, Inc.—
(continued. . .)

carriers, the exemption is subject to the labor protection requirements of 49 U.S.C.

11326(b).

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 August 3, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35064, 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, Of Counsel, Ball Janik, LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: July 19, 2007.

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

Vernon A. Williams

Secretary

(. . .continued)

Control Exemption—Appalachian & Ohio Railroad, Inc., STB Finance Docket No. 34856
(STB served May 23, 2006).