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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35708]

Koch Industries, Inc.—Acquisition of Control Exemption—Texas South-Eastern  
Railroad Company

Koch Industries, Inc. (Koch), a noncarrier, has filed a verified notice of exemption to acquire indirect control of Texas South-Eastern Railroad Co. (TSE), a Class III rail carrier.

Koch states that the transaction is part of an agreement in which Georgia-Pacific Building Products, an indirect wholly owned subsidiary of Koch, is purchasing from International Paper Company certain assets used in connection with, and certain equity interest relating to, Temple-Inland, Inc.'s building products business. Koch intends to consummate the transaction on or shortly after February 1, 2013 (the effective date of the exemption is January 26, 2013, 30 days after the verified notice was filed).

Koch currently controls directly or indirectly four other Class III rail carriers in the states of Mississippi, Kansas, and Texas: Blue Rapids Railway Company, LLC; KM Railways, LLC.; Old Augusta Railroad, LLC.; and Moscow Camden and San Augustine Railroad, LLC.

Koch states that: (1) the rail line does not connect with any railroads owned or controlled by Koch; (2) this transaction is not part of a series of anticipated transactions

that would connect any of the railroads controlled by Koch with TSE; and (3) the transaction does not involve a Class I railroad. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323 pursuant to 49 C.F.R. § 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 §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the verified 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. Stay petitions must be filed no later than January 18, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35708, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy must be served on David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Ave., N.W., Washington, DC 20036.

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Decided: January 8, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.