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SERVICE DATE – JANUARY 13, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35889

ALABAMA SOUTHERN RAILROAD, L.L.C.—LEASE AND OPERATION EXEMPTION
INCLUDING INTERCHANGE COMMITMENT—THE KANSAS CITY SOUTHERN
RAILWAY COMPANY

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision allows Alabama Southern Railroad, L.L.C., a Class III rail carrier, to continue to lease from The Kansas City Southern Railway Company and operate approximately 85.6 miles of rail lines in Mississippi and Alabama, and waives the 60-day advance notice requirement to employees because no employees would be adversely affected.

Decided: January 12, 2015

On December 18, 2014, Alabama Southern Railroad, L.L.C. (ABS) filed a request for a waiver of the employee notice requirements of 49 C.F.R. § 1150.42(e). The waiver request is related to a verified notice of exemption concurrently filed by ABS in this docket under 49 C.F.R. § 1150.41 to continue to lease and operate rail lines in Mississippi and Alabama, in which ABS certified that its projected annual revenues as a result of this transaction would exceed \$5 million. Accordingly, unless waived, § 1150.42(e) requires ABS, at least 60 days before the notice of exemption can 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. No opposition to this waiver request has been filed.

BACKGROUND

ABS filed its verified notice of exemption² to continue to lease from The Kansas City Southern Railway Company (KCS) and operate approximately 85.6 miles of rail lines between:

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² Notice of the exemption was served and published in the Federal Register on January 2, 2015 (80 Fed. Reg. 108). But for the labor notice requirements, the exemption would become effective 30 days from its filing date, January 17, 2015.

(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).³ ABS and KCS recently entered into an amended and restated lease agreement, which extends the term of the lease until November 30, 2024, and makes other minor changes to the lease.

Because ABS has been leasing and operating the Lines and would continue to do so, ABS requests a waiver so that the authority it seeks in its exemption notice can become effective without ABS's providing notice. In support, ABS asserts that: (1) no KCS employee would be affected by the lease because no KCS employee has performed operations or maintenance on the Lines since 2005; (2) no ABS employee would be affected by the lease because ABS would 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 pointless act because the transaction would simply extend the term of the lease agreement between ABS and KCS.

DISCUSSION AND CONCLUSIONS

The purpose of our notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation. The Board takes seriously the requirements of the rule, but it does not appear that the purpose behind the notice requirements would be thwarted if the requested waiver is granted in this case.

The record indicates that no employees would be adversely affected by a waiver of the requirements here. ABS employees would continue to provide the same service and maintenance they have provided since 2005, and KCS employees have performed no work on the Lines since then. Because no employees would be adversely affected by the waiver of the 60-day notice period, we will grant the waiver request, thereby allowing the related exemption authority to lease and operate the Lines to become effective on January 17, 2015.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

³ ABS was granted authority to lease and operate the Lines in Alabama Southern Railroad—Lease & Operation Exemption—Kansas City Southern Railway, FD 34754 (STB served Dec. 2, 2005).

It is ordered:

1. ABS's request for waiver is granted, and the exemption authority to lease and operate the Lines is effective on January 17, 2015.
2. This decision is effective on its date of service.

By the Board, Acting Chairman Miller and Vice Chairman Begeman.