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SERVICE DATE – DECEMBER 31, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34286]

Fort Worth and Western Railroad Company, Inc.–Acquisition and Operation

Exemption–Union Pacific Railroad Company

Fort Worth and Western Railroad Company, Inc. (FWWR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire and operate, through a supplemental lease agreement, approximately 6.92 miles of rail line from Union Pacific Railroad Company (UP). The rail line, known as the Everman Industrial Lead, extends from the clearance point near milepost 244.98 in UP's Ginnie Yard to the end of the line near milepost 251.90, including the Carter Industrial Park spur, in Fort Worth, TX. In addition, FWWR will acquire approximately .60 miles of non-exclusive incidental trackage rights accessing the Everman Industrial Lead over UP main lines, solely for the purpose of interchanging traffic between the parties through UP's Peach Yard in Fort Worth.¹ The incidental trackage rights extend: (1) from the connecting tracks of the northeast and southeast quadrant legs of the wye at Tower 55 off the Choctaw Subdivision in Fort Worth, to connections on both main lines on

¹ The agreements supplement existing lease and trackage rights agreements between the parties involving UP's Peach Yard. See Fort Worth and Western Railroad Company, Inc.–Acquisition and Operation Exemption–Union Pacific Railroad Company, STB Finance Docket No. 34131 (STB served Nov. 15, 2001).

the Dallas Subdivision; and (2) from the crossover between mileposts 245.41 and 245.35 just west of Ginnie Yard, in order to access track in Ginnie Yard at milepost 245.2 to make a connection with the Everman Industrial Lead at milepost 244.98.

Because FWWR's projected annual revenues will exceed \$5 million, FWWR certified to the Board on December 6, 2002, that, on October 4, 2002, it had posted the required notice of intent to undertake the proposed transaction at the workplace of the employees on the affected line and had served a copy of the notice of intent on the national offices of all labor unions with employees on the rail line. See 49 CFR 1150.42(e). FWWR stated in its verified notice that the transaction was scheduled to be consummated on or after December 15, 2002.²

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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34286, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Paul H. Lamboley, 1701 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20006.

² Due to the timing of FWWR's certification to the Board, consummation under these circumstances would have had to be delayed until February 4, 2003 (60 days after FWWR's certification to the Board that it had complied with the requirements of 49 CFR 1150.42(e)). In a decision in this proceeding served on December 20, 2002, however, the Board granted the request by FWWR for waiver of the remainder of the 60-day notice period to allow consummation to occur as early as December 20, 2002.

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“WWW.STB.DOT.GOV.”

Decided: December 23, 2002.

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

Vernon A. Williams

Secretary