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SERVICE DATE – JANUARY 28, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35212]

Kyle Railroad Company—Acquisition and Operation Exemption—Mid-States Port Authority

Kyle Railroad Company (Kyle), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Mid-States Port Authority (MSPA), a noncarrier, and to operate a 351.50-mile line of railroad extending between:

(a) milepost 531.00 at Limon, CO, and milepost 189.40 at Belleville, KS;  
(b) milepost 189.40 at Belleville, KS, and milepost 182.00 at Munden, KS; and (c) milepost 226.25 at Belleville and milepost 223.75, east of Belleville, in Lincoln and Kit Carson Counties, CO, and Sherman, Thomas, Sheridan, Decatur, Norton, Phillips, Smith, Jewell, and Republic Counties, KS.

As part of the Chicago, Rock Island and Pacific Railroad Company (Rock Island) bankruptcy proceeding, the Rock Island was authorized by the Interstate Commerce Commission (ICC) to abandon its entire rail system with certain conditions. See Chicago, R. I. & R. P. Co. Abandonment, 363 I.C.C. 150 (1980). On April 18, 1984, in Order No. 676A, the bankruptcy court authorized MSPA to purchase the 351.50-mile portion of the line. On April 30, 1984, MSPA and Kyle entered into an agreement and Kyle was authorized in Kyle Railroad Company—Notice of Modified Certificate of

Public Convenience and Necessity, Finance Docket No. 30490 (ICC served June 4, 1984)

to acquire from MSPA and to operate the line. Kyle is seeking the Board's authority as required by the agreement to acquire and operate the line and to remove the potential impediment to exercising its option to acquire the line.

The proposed transaction is scheduled to be consummated on June 1, 2009.

Kyle certifies that its projected annual revenues as a result of the transaction will not result in Kyle becoming a Class II or Class I rail carrier. However, because its projected annual revenues will exceed \$5 million, Kyle also has certified to the Board that it has complied with the employee notice requirements of 49 CFR 1150.42(e). Pursuant to that provision, the exemption may not become effective until 60 days from the January 13, 2009 date of the revised certification to the Board, which would be March 13, 2009.

According to Kyle, there is no provision or agreement that may limit future interchange with a third-party connecting carrier.

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

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 by March 6, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35212, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on applicants' representative, Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

Board decisions and notices are available on our website at ["WWW.STB.DOT.GOV."](http://WWW.STB.DOT.GOV)

Decided: January 16, 2009.

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

Anne K. Quinlan

Acting Secretary