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SERVICE DATE - SEPTEMBER 29, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33780]

The Kansas City Southern Railway Company--Trackage Rights Exemption--Gateway Western Railway Company and Gateway Eastern Railway Company

Gateway Western Railway Company and Gateway Eastern Railway Company (collectively, Gateway) have agreed to grant local and overhead trackage rights to The Kansas City Southern Railway Company (KCS)¹ over track structures, including sidings, related yard facilities and industry tracks, extending: (1) between Kansas City, MO, and East St. Louis, IL; and (2) between Roodhouse, IL, and Springfield, IL, for a total distance of approximately 478 miles.² The purpose of the trackage rights is to allow KCS to market “seamless” rail service over the KCS system and Gateway’s, avoiding interchange costs and delays and allowing enhanced train scheduling and equipment utilization. The transaction was initially scheduled to be consummated on or after July 21, 1999, the effective date of the

¹ KCS and Gateway are commonly controlled and affiliated railroad companies. See Kansas City Southern Industries, Inc., KCS Transportation Company, and The Kansas City Southern Railway Company--Control--Gateway Western Railway Company and Gateway Eastern Railway Company, STB Finance Docket No. 33311 (STB served May 1, 1997).

² A redacted version of the trackage rights agreement between Gateway and KCS was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for a protective order, which was granted in a decision served July 23, 1999.

exemption (7 days after the exemption was filed).³

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Ry. Co.--Trackage Rights--BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.--Lease & Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33780, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Robert K. Dreiling, Esq., The Kansas City Southern Railway Company, 114 West Eleventh St., Kansas City, MO 64105.

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³ On July 19, 1999, Joseph C. Szabo, on behalf of the United Transportation Union-Illinois Legislative Board filed a petition requesting the Board to stay operation of the exemption pending the filing and disposition of a petition to reject or to revoke it. By decision served July 20, 1999, the Board granted a 60-day stay of the effective date of the exemption, until September 19, 1999, to permit the Board to examine the issues in this proceeding in greater detail, thus delaying publication of the notice and the effectiveness of the exemption. On August 9, 1999, Mr. Szabo and W. Larry Foster, on behalf of the United Transportation Union-Missouri Legislative Board, filed a petition, to reject and/or to revoke the notice of exemption or to impose added labor protection. By decision served September 16, 1999, the Board denied the petition, subject to the Board's reservation of jurisdiction to consider other issues in future proceedings, as discussed in that decision. As a result, this exemption became effective on September 19, 1999.

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Decided: September 22, 1999.

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

Vernon A. Williams

Secretary