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SERVICE DATE - FEBRUARY 7, 2001

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33996]

Kern W. Schumacher and Morris H. Kulmer—Continuance in Control Exemption—SF&L Railway, Inc.

Kern W. Schumacher and Morris H. Kulmer (collectively applicants), have filed a notice of exemption to continue in control of SF&L Railway, Inc. (SF&L), upon SF&L's becoming a Class III railroad.

The transaction was scheduled to be consummated on or shortly after January 17, 2001.

This transaction is related to STB Finance Docket No. 33995, SF&L Railway, Inc.—Acquisition and Operation Exemption—Toledo, Peoria and Western Railway Corporation Between La Harpe and Peoria, IL, wherein SF&L is seeking an exemption to acquire an operating easement over, and the rail, ties, and improvements of, a line of railroad approximately 71.5 miles long in Hancock, McDonough, Fulton and Peoria Counties, IL.

Applicants currently indirectly control three existing Class III railroads: Tulare Valley Railroad Company, which is authorized to operate in the State of California; Kern Valley Railroad Company, which is authorized to operate in the State of Colorado; and V and S Railway, Inc., which is authorized to operate in the State of Kansas.

Applicants state that: (i) the rail lines of SF&L will not connect with any other lines of railroad under their control or within their corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 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 sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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 transaction.¹

¹ On January 16, 2001, a petition to stay the effectiveness of the exemptions filed in this proceeding and in STB Finance Docket No. 33995 was filed by Joseph C. Szabo, on behalf of the United Transportation Union-Illinois Legislative Board. The petition for stay was denied by the Board in SF&L Railway, Inc.–Acquisition and Operation Exemption–Toledo, Peoria and Western Railway Corporation Between La Harpe and Peoria, IL, STB Finance Docket No. 33995, and Kern W. Schumacher and Morris H. Kulmer–Continuance in Control Exemption–SF&L Railway, Inc., STB Finance Docket No. 33996 (STB served Jan. 16, 2001).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33996, 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 Fritz R. Kahn, Esq., 1920 N Street, N.W., 8th Floor, Washington, DC 20036-1601.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: January 30, 2001.

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

Vernon A. Williams

Secretary