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SERVICE DATE - OCTOBER 26, 1999

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33803]

Utah Railway Company–Acquisition of Control Exemption–Salt Lake City Southern
Railroad Company, Inc.

Utah Railway Company (UTAH), a Class III rail carrier, has filed a verified notice of exemption to acquire the capital stock of Salt Lake City Southern Railroad Company, Inc. (SLCS).¹ UTAH operates 275 miles of trackage and trackage rights in Utah and Colorado and also operates trackage between Provo and Ogden, UT, as agent of The Burlington Northern and Santa Fe Railway Company (BNSF). SLCS operates 24.95 miles of rail line from milepost 798.74 at Ninth South Street in Salt Lake City to milepost 775.19 at the Salt Lake County/Utah County boundary line near Mount (including the 1.4-mile Lovendahl Spur connecting with the main line at milepost 790.52), in Salt Lake County, UT.²

Under the terms of an agreement with SLCS's corporate parent, RailTex, Inc., UTAH was to purchase all of the issued and outstanding capital stock of SLCS on

¹ UTAH had filed a notice of exemption to acquire and operate SLCS's line in Utah Railway Company–Acquisition and Operation Exemption–Lines of Utah Transit Authority in Salt Lake City, UT, STB Finance Docket No. 33785 (STB served Aug. 30, 1999) (64 FR 47229). UTAH states that it does not intend to exercise authority under the notice of exemption in STB Finance Docket No. 33785.

² SLCS operates the line under a permanent easement granted by the Utah Transit Authority. See Salt Lake City Southern Railroad Company, Inc.–Acquisition and Operation Exemption–Line Between Mount and Salt Lake City, UT, Finance Docket No. 32276 (ICC served Apr. 23, 1993).

September 30, 1999 and place the shares into a voting trust. The transaction was scheduled to be consummated on October 13, 1999 (7 days after the exemption was filed), when UTAH was to acquire the stock held in the voting trust.

UTAH indicates that SLCS's trackage runs parallel to some of the trackage operated by UTAH, as BNSF's agent. UTAH maintains, however, that, as BNSF's agent, it does not have common carrier rights or obligations on BNSF trackage.

UTAH indicates that: (i) the railroads do not connect with each other; (ii) the transaction is not part of a series of anticipated transactions that would connect the railroads with each other; 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 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. 33803, must be filed with the Surface Transportation Board, Office of the Secretary,

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Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on Theodore A. McConnell, Kirkpatrick & Lockhart LLP, 1500 Oliver Building, Pittsburgh, PA 15222.

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“WWW.STB.DOT.GOV.”

Decided: October 18, 1999.

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

Vernon A Williams

Secretary