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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34468]

Atlantic Western Transportation, Inc.–Continuance in Control Exemption–Georgia
Midland Railroad, Inc.

Atlantic Western Transportation, Inc. (AWT), a noncarrier, has filed an amended notice of exemption to continue in control of Georgia Midland Railroad, Inc. (GMR), upon GMR's becoming a rail carrier.

The transaction was expected to be consummated on or after February 19, 2004 (7 days after the amended notice was filed).

This transaction is related to the concurrently filed amended notices of exemption in: (1) STB Finance Docket No. 34466, Georgia Midland Railroad, Inc.–Acquisition and Operation Exemption–Ogeechee Railway Company, wherein Ogeechee Railway Company (ORC) seeks to sublease to GMR three rail line segments that do not connect with each other totaling 78.06 miles; and (2) STB Finance Docket No. 34467, Heart of Georgia Railroad, Inc.–Acquisition and Operation–Rail Line of Ogeechee Railway Company, wherein ORC seeks to sublease a 42.4-mile rail line between Midville and Vidalia, GA, to Heart of Georgia Railroad, Inc. (HOG). AWT also currently controls HOG, a Class III rail carrier, which operates a rail line between Vidalia, GA, and Mahrt, AL, a distance of approximately 177.76 miles.

AWT states that: (1) the railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control 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 (3) 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. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34468, 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 Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112.

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Decided: March 4, 2004.

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

Vernon A. Williams

Secretary