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SERVICE DATE – MARCH 10, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35474]

DeQueen and Eastern Railroad, LLC—Corporate Family Transaction Exemption—
Texas, Oklahoma & Eastern Railroad, LLC

DeQueen and Eastern Railroad, LLC (DQ&E) and Texas, Oklahoma & Eastern Railroad, LLC (TOE), have filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) for a transaction within a corporate family. DQ&E seeks to lease and operate all of TOE's lines of railroads, consisting of approximately 40 miles of rail line between milepost 40.0 (the Oklahoma-Arkansas border) and milepost 0.0 (Valliant, Okla.), including auxiliary, storage, and spur tracks, in McCurtain County, Okla. DQ&E and TOE are Class III rail carriers and are wholly owned subsidiaries of Tennessee Southern Railroad Company (TSRR).¹ The transaction is intended to result in more efficient and lower cost operations.

The exemption will be effective on March 24, 2011.

This is a transaction within a corporate family of the type exempted from prior review and approval under 49 C.F.R. § 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational

¹ See Tenn. S. R.R.—Continuance in Control Exemption—Columbia & Cowlitz Ry. Docket No. FD 35425 (served Nov. 12, 2010). Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp. indirectly control DQ&E and TOE through TSRR.

changes, or changes in the competitive balance with carriers outside the corporate family.

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 §§ 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 rail carriers.

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. Petitions for stay will be due no later than March 17, 2011 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings, referring to Docket No. FD 35474 must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on applicants' representative, Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

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Decided: March 4, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.