

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35573

WATCO HOLDINGS, INC. AND WATCO TRANSPORTATION SERVICES, L.L.C.—
ACQUISITION OF CONTROL EXEMPTION—WISCONSIN & SOUTHERN RAILROAD,
L.L.C.

Decided: January 5, 2012

On November 29, 2011, Watco Holdings, Inc. (Watco Holdings) and Watco Transportation Services, L.L.C. (Watco Services) (collectively, Watco) filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) for Watco Holdings to acquire indirect control, and for Watco Services to acquire direct control, of the Wisconsin & Southern Railroad, L.L.C., a Class II railroad. Notice of the exemption was served and published in the Federal Register on December 15, 2011 (76 Fed. Reg. 78,080) (December 15 notice). The exemption became effective on December 29, 2011.

As indicated in the December 15 notice, requests to stay the effectiveness of the exemption were due by December 22, 2011.¹ On December 28, 2011, Wisconsin State Representatives Brett Hulsey, Louis Molepske, Kelda Helen Roys, Fred Clark, and Terese Berceau (collectively, State Representatives) requested a 60-day delay of the December 29, 2011 effective date, in order to provide an adequate opportunity to investigate the effects of the acquisition. On December 29, 2011, Watco filed a reply, opposing the State Representatives' request.

The State Representatives' request was submitted one day prior to the exemption's taking effect on December 29, giving the Board insufficient time to review and rule on the request. Because the stay request was untimely and the exemption is already in effect, the request will be denied. Although the exemption is in effect, recourse remains available to any interested person through a petition to revoke the exemption under the standard set out at 49 U.S.C. § 10502(d).²

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ See 49 C.F.R. § 1180.4(g)(1)(iii) (stay petitions must be filed at least 7 days before the exemption becomes effective).

² Under 49 U.S.C. § 10502(d), the Board may revoke an exemption, to the extent it specifies, when it finds that application in whole or in part of a provision of Title 49, Subtitle IV, Part A is necessary to carry out the rail transportation policy at 49 U.S.C. § 10101.

It is ordered:

1. State Representatives' request to stay the effective date of the exemption is denied.
2. This decision is effective on its date of service.

By the Board, Daniel R. Elliott, Chairman.