

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****[STB Finance Docket No. 34042]****Watco Companies, Inc.—Continuance in Control Exemption—Kansas & Oklahoma Railroad, Inc.**

Watco Companies, Inc. (Watco), a noncarrier, has filed a verified notice of exemption to continue in control of Kansas & Oklahoma Railroad, Inc. (K&O), upon K&O's becoming a carrier.

This transaction is related to two concurrently filed verified notices of exemption: STB Finance Docket No. 34030, *Kansas & Oklahoma Railroad, Inc.—Acquisition Exemption—Central Kansas Railway, L.L.C.*, wherein K&O seeks to acquire most of the rail lines owned or leased and operated by the Central Kansas Railway, L.L.C. (CKR) in the States of Kansas and Colorado; and STB Finance Docket No. 34047, *Kansas & Oklahoma Railroad, Inc.—Trackage Rights Exemption—Central Kansas Railway, L.L.C.*, wherein K&O seeks to acquire temporary overhead trackage rights over a 16-mile rail line, which is to be retained by CKR, in the State of Kansas.

The transaction was expected to be consummated on or shortly after June 1, 2001.

Watco owns and controls five existing Class III rail carriers: South Kansas and Oklahoma Railroad Company (SKO), which operates in the States of Missouri, Kansas, and Oklahoma; Palouse River & Coulee City Railroad, Inc., which operates in the States of Washington, Oregon, and Idaho; Timber Rock Railroad, Inc., which operates in the States of Texas and Louisiana; Stillwater Central Railroad, which operates in the State of Oklahoma; and Eastern Idaho Railroad, Inc. (EIRR), which operates in the State of Idaho.<sup>1</sup>

Watco states that: (i) K&O will not connect with the rail lines of any existing carrier in the Watco corporate family;<sup>2</sup> (ii) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines being acquired by K&O with any

<sup>1</sup> Watco's control of EIRR is the subject of a verified notice of exemption in *Watco Companies, Inc.—Control Exemption—Eastern Idaho Railroad, Inc.*, STB Finance Docket No. 34045.

<sup>2</sup> According to the verified notice, SKO operates as a non-exclusive agent for the Southern Pacific Transportation Company (SP) (now merged into Union Pacific Railroad Company) over SP's trackage rights on a rail line owned and operated by The Burlington Northern and Santa Fe Railway Company (BNSF) between Hutchinson and Winfield, KS. SKO neither performs any operations on the BNSF line in its own account nor holds itself out to be an operator over the BNSF line.

of the carriers controlled by Watco; 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. 34042, 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 Karl Morell, Esq., Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

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Decided: June 5, 2001.

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

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 01-14636 Filed 6-11-01; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****[STB Finance Docket No. 34030]****Kansas & Oklahoma Railroad, Inc.—Acquisition Exemption—Central Kansas Railway, L.L.C.**

Kansas & Oklahoma Railroad, Inc. (K&O), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 678 miles of rail lines in the State of Kansas from the Central Kansas Railway, L.L.C. (CKR). K&O will also acquire, by assignment from CKR, the lease of approximately 225 miles of rail lines in the States of Kansas and Colorado that are owned by the Union

Pacific Railroad Company (UP). In addition, K&O will acquire, by assignment from CKR, incidental trackage rights over seven segments of rail line in the State of Kansas owned by the UP and The Burlington Northern and Santa Fe Railway Company (BNSF).

K&O will acquire from CKR the following rail lines located in the State of Kansas:

(1) The Salina Subdivision rail line between milepost 20 + 492 feet, at Salina, and milepost 103.34, at Osborne;

(2) The Scott City Subdivision rail line between milepost 0.0, at Great Bend, and milepost 120 + 1338.7 feet, at Scott City;

(3) The Garden City Subdivision rail line between milepost 120 + 169 feet, at Scott City, and milepost 125 + 4687 feet, at Shallow Water;

(4) The Great Bend Subdivision and Garfield Industrial Spur rail lines between milepost 218.3288, east of Monroe Street at Hutchinson, and milepost 303.0, at Garfield;

(5) The Jetmore Subdivision rail line between milepost 0.0, at Larned, and milepost 46 + 2483.5 feet, at Jetmore;

(6) The Wichita Subdivision rail line (a) between milepost 0.0 and 3.5 at Wichita, and (b) between milepost 19.5, at Garden Plain, and milepost 79 + 3855 feet, at Pratt;

(7) The Englewood Subdivision rail line between milepost 46.0, east of Rago, and milepost 136, at Protection;

(8) The McPherson Subdivision rail line (a) between milepost 43.8, at McPherson, and milepost 58.0, west of Conway, and (b) between milepost 77.4, at Lyons, and milepost 98 + 1209.5 feet, at Ellinwood;

(9) The Geneseo Subdivision rail line between milepost 572.677, on the east leg of the wye and 1213 feet of the west leg of the wye, at Geneseo, and milepost 550.5, at ST Junction;

(10) The Hutchinson Subdivision rail line between milepost 538.0, at Yaggy, and milepost 484.0, at Wichita;

(11) The Hardtner Subdivision rail line between milepost 485.938, at Wichita, and milepost 514.25, at Conway Springs;

(12) The Stafford Subdivision rail line between milepost 559 + 955 feet, at Conway Springs, and milepost 583.3, near Belmont; and

(13) The H&S Subdivision rail line between milepost 31.1, at Kingman, and milepost 48.2, at Rago.

K&O will be assigned by CKR the following: (1) The CKR lease of the UP rail line between UP milepost 747.5, at Towner, CO, and UP milepost 523.02, at Geneseo, KS; and (2) the CKR lease of the rail freight easement over the UP rail

line between milepost 312.65 and milepost 313.38, at Wichita, KS.

K&O will acquire, by assignment from CKR, incidental overhead trackage rights in the State of Kansas over:

(1) BNSF's Hutchinson Subdivision rail line between milepost 218.3 and milepost 213 + 4333 feet, at Hutchinson, including BNSF's Hutchinson "Way" Yard Track Nos. 144, 259, 304, 260, 261, 221, 174, 172, 171, 241, 220, 169, and 168;

(2) BNSF's rail line between milepost 56.6 and milepost 60.2, at Abilene;

(3) BNSF's rail line between milepost 184.3 and milepost 190.0, at Newton;

(4) UP's rail line between milepost 487.1, at Newton, and milepost 518, at McPherson, including the segment of track extending about 116 feet in a southerly direction from milepost 487.1, and including UP's Siding Track No. 6, at Hesston, and Siding Track No. 1, at Moundridge;

(5) UP's rail line between milepost 164.05, at Abilene, and milepost 184.56, at Salina;

(6) UP's rail line between milepost 246.46 and milepost 243.56, at Hutchinson; and

(7) UP's rail line between milepost 182.0 and milepost 187.2, at Salina.

Because the projected revenues of the rail lines to be operated will exceed \$5 million, K&O certified to the Board, on April 2, 2001, that the required notice of its rail line acquisition was posted at the workplace of the employees on the affected lines on April 2, 2001.

According to K&O's certification, it served a copy of the notice on the national office of the United Transportation Union, the only labor union with employees on the affected lines. See 49 CFR 1150.32(e). The transaction was scheduled to be consummated on or shortly after June 1, 2001.

The transaction is related to two concurrently filed verified notices on exemption: STB Finance Docket No. 34042, *Watco Companies, Inc.—Continuance in Control Exemption—Kansas & Oklahoma Railroad, Inc.*, wherein Watco Companies, Inc. seeks to continue in control of K&O upon K&O's becoming a Class III rail carrier; and STB Finance Docket No. 34047, *Kansas & Oklahoma Railroad, Inc.—Trackage Rights Exemption—Central Kansas Railway, L.L.C.*, wherein K&O seeks to acquire temporary overhead trackage rights over CKR's 16-mile rail line in the State of Kansas.

In the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding 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. 34030 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423—0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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Decided: June 5, 2001.

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

**Vernon A. Williams,**  
*Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34047]

#### **Kansas & Oklahoma Railroad, Inc.— Trackage Rights Exemption—Central Kansas Railway, L.L.C.**

Central Kansas Railway, L.L.C. (CKR), has agreed to grant to Kansas & Oklahoma Railroad, Inc. (K&O) temporary overhead trackage rights over the trackage of CKR located between CKR milepost 19.5, near Garden Plain, KS, and CKR milepost 3.5, at Wichita, KS, a distance of 16 miles (trackage rights line).<sup>1</sup>

The transaction was scheduled to be consummated on or shortly after June 1, 2001.<sup>2</sup>

This transaction is related to two concurrently filed verified notices of exemption: STB Finance Docket No. 34030, *Kansas & Oklahoma Railroad, Inc.—Acquisition Exemption—Central Kansas Railway, L.L.C.*, wherein K&O seeks to acquire most of the rail lines

<sup>1</sup> The trackage rights line was authorized for abandonment by the Board in *Central Kansas Railway, L.L.C.—Abandonment Exemption—in Sedgewick County, KS*, STB Docket No. AB-406 (Sub-No. 14X) (STB served Apr. 10, 2001). As noted in STB Docket No. AB-406 (Sub-No. 14X), the abandonment of the trackage rights line was subject to the condition that CKR could not consummate abandonment until it certified to the Board that its relocation project near Kingman, KS, had been completed and that any necessary rehabilitation and maintenance had been performed on its rail line between Wichita and Kingman via Conway Springs, KS.

<sup>2</sup> K&O indicates that it will shortly file a petition for exemption to permit temporary trackage rights operations and thus to limit the term of the trackage rights.

owned or leased and operated by CKR in the States of Kansas and Colorado;<sup>3</sup> and STB Finance Docket No. 34042, *Watco Companies, Inc.—Continuance in Control Exemption—Kansas & Oklahoma Railroad, Inc.*, wherein Watco Companies, Inc. seeks to continue in control of K&O upon K&O's becoming a Class III rail carrier.

The trackage rights will allow K&O to move traffic to and from Wichita until the relocation and rehabilitation projects have been completed.

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.

This notice is filed under 49 CFR 1180.2(d)(7). If it 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. 34047, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423—0001. In addition, one copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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Decided: June 5, 2001.

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

**Vernon A. Williams,**  
*Secretary.*

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<sup>3</sup> In addition to the lines being acquired by K&O in the STB Finance Docket No. 34030 proceeding, K&O will also assume from CKR the ongoing work on the relocation project near Kingman and the rehabilitation of the rail line between Wichita and Kingman via Conway Springs. However, K&O will not acquire the trackage rights line.