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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34525]

K. Earl Durden, Rail Management Corporation, and Rail Partners, L.P.–Continuance in Control Exemption–Riceboro Southern Railway, L.L.C.

K. Earl Durden (Durden), Rail Management Corporation (RMC),¹ and Rail Partners, L.P. (Partners) (collectively, applicants), have filed a verified notice of exemption to continue in control of Riceboro Southern Railway, L.L.C. (RSOR), upon RSOR's becoming a rail carrier.

The transaction was expected to be consummated on or after August 25, 2004.

This transaction is related to a simultaneously filed verified notice of exemption in STB Finance Docket No. 34524, Riceboro Southern Railway, L.L.C.–Acquisition and Operation Exemption–Rail Line of CSX Transportation, Inc., wherein: (1) RSOR seeks to acquire by purchase from CSX Transportation, Inc. (CSXT), and operate approximately 18.8 route miles of rail line between milepost S512.2 at Ogeechee, GA (near Richmond Hill), in Bryan County, GA, and milepost S531.0 at Riceboro, GA, in Liberty County, GA; and (2) RSOR will obtain incidental trackage rights from CSXT over approximately 14 miles of CSXT's line from milepost S512.2 at Ogeechee to

¹ RMC's former corporate name was Rail Management & Consulting Corporation.

milepost S498.0 at CSXT's Southover Yard at Savannah, GA. Through these trackage rights, RSOR will access the Southover Yard for the purpose of interchanging with CSXT from the south.

At the time applicants filed this notice, Durden, RMC, and Partners controlled 14 Class III rail carriers located in Alabama, Arizona, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, Texas, and Wisconsin. They are: AN Railway, L.L.C.; Atlantic & Western Railway, L.P.; The Bay Line Railroad, L.L.C.; Copper Basin Railway, Inc.; East Tennessee Railway, L.P.; Galveston Railroad, L.P.; Georgia Central Railway, L.P. (GC);² KWT Railway, Inc.; Little Rock & Western Railway, L.P.; M&B Railroad, L.L.C.; Tomahawk Railway, L.P.; Valdosta Railway, L.P.; Western Kentucky Railway, L.L.C., and Wilmington Terminal Railroad, L.P. (referred to as the RMC Rail Group).

Applicants state that: (1) the railroads do not connect with any other rail lines in applicants' corporate family; (2) the continuance in control of RSOR is not part of a series of anticipated transactions that would connect applicants' rail lines; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

² Applicants note that GC connects with CSXT's Southover Yard from the north. Applicants state that there will be no connection between the lines of RSOR and GC. The point at which RSOR will access the Southover Yard and the point at which GC accesses the Southover Yard are entirely separated by CSXT yard track, thus precluding a direct interchange between RSOR and GC. Moreover, there are no plans to interchange traffic even indirectly among the RSOR, CSXT, and GC.

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 stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34525, 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 Andrew B. Kolesar III, Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: August 25, 2004.

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

Vernon A. Williams

Secretary