

Discussion

This appendix and policy statement do not introduce new policy or regulation but provide a compilation of existing regulation, guidance, and procedures in the application of the AML STC process for certification projects. The AML STC process may be used whenever the ACO and applicant agree that it is appropriate. The AML STC process may also be effective for a certification project of an aircraft under another certification basis. The applicant should coordinate with the appropriate ACO for final determination.

Issued in Kansas City, Missouri on May 21, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34342]

Kansas City Southern—Control—The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and The Texas Mexican Railway Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Decision No. 2 in STB Finance Docket No. 34342; Notice of Acceptance of Railroad Control Application; Issuance of Procedural Schedule.

SUMMARY: The Surface Transportation Board (Board) is accepting for consideration the KCS-3/TM-3 railroad control application (referred to as the KCS/TM application) filed May 14, 2003, by Kansas City Southern (KCS), The Kansas City Southern Railway Company (KCSR), Gateway Eastern Railway Company (GWER), The Texas Mexican Railway Company (Tex Mex or TM), and Mexrail, Inc. (Mexrail).¹ The KCS/TM application seeks Board approval and authorization under 49 U.S.C. 11321-26 for KCS, which already controls KCSR and GWER, to acquire control of Tex Mex. The Board finds that the transaction proposed in the

KCS/TM application is a “minor transaction” under 49 CFR 1180.2(c), although the applicants are subject to the expanded and enhanced requirements discussed herein.

The Board has considered applicants’ petition to establish a procedural schedule, also filed May 14, 2003. With a modification to reflect that the KCS/TM application was filed on May 14, 2003, and with further modifications principally intended to allow time for a public hearing and to allow interested parties additional time to file comments, the Board is adopting applicants’ proposed procedural schedule, as modified. This will allow the Board to issue a decision 45 days after the close of the record and 24 days prior to the statutory deadline, assuming that no unanticipated environmental review is required and that no oral argument is held.

DATES: The effective date of this decision is June 13, 2003. Applicants must submit their Environmental Appendix and Safety Integration Plan (SIP) to the Board, and must supplement their application in the manner indicated below, by June 23, 2003. Any person who wishes to participate in this proceeding as a party of record (POR) must file, no later than June 27, 2003, a notice of intent to participate. Applicants must distribute their Environmental Appendix and SIP to parties of record and other designated entities, and must initiate publication of newspaper notices, by July 1, 2003. A public hearing will be held in late July 2003; the precise date and the location will be announced later. All comments on applicants’ Environmental Appendix and SIP must be filed by July 31, 2003. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the KCS/TM application, including filings by the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), must be filed by August 4, 2003. Responses to comments, protests, requests for conditions, and other opposition, responses to comments of DOJ and DOT, and rebuttal in support of the KCS/TM application must be filed by September 2, 2003. For further information respecting dates, see Appendix A (Procedural Schedule).

ADDRESSES: Send an original and 25 copies of all pleadings referring to STB Finance Docket No. 34342 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.² In

² For a document to be considered a formal filing, the Board must receive an original and 25 copies of the document, which must show that it has been properly served. Documents transmitted by

addition, one copy of all documents in this proceeding must be sent to: (1) Secretary of the United States Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3645, Department of Justice, Washington, DC 20530; (3) William A. Mullins, Esq., Troutman Sanders LLP, 401 Ninth Street, NW., Suite 1000, Washington, DC 20004-2134; and (4) Richard H. Streeter, Esq., Barnes & Thornburg, 750 Seventeenth Street, NW., Suite 900, Washington, DC 20006.

In addition to submitting an original and 25 copies of all paper documents filed with the Board, parties also must submit, on 3.5-inch IBM-compatible floppy diskettes (disks) or compact discs (CDs), copies of all textual materials, electronic workpapers, data bases, and spreadsheets used to develop quantitative evidence. Textual materials must be in, or compatible with, WordPerfect 10.0. Electronic spreadsheets must be in, or compatible with, Lotus 1-2-3 Release 9 or Microsoft Excel 2002. A copy of each disk or CD submitted to the Board should be provided to any other party upon request. Further details are discussed below.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 565-1655.

(Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.)

SUPPLEMENTARY INFORMATION: The KCS/TM common control for which applicants seek approval in the KCS/TM application involves the acquisition by KCS of control of Tex Mex.

Kansas City Southern. KCS, a noncarrier holding company, currently controls two rail carriers: KCSR and GWER.

The Kansas City Southern Railway Company. KCSR, a Class I railroad,³ is a wholly owned direct subsidiary of KCS. KCSR owns and operates approximately 3,100 miles of main and

facsimile (FAX) will not be considered formal filings and are not encouraged because they will result in unnecessarily burdensome, duplicative processing. In addition, each formal filing must be accompanied by an electronic submission per the Board’s requirements as discussed in detail in this decision.

³ The Board’s regulations divide railroads into three classes based on annual carrier operating revenues. Class I railroads are those with annual carrier operating revenues of \$250 million or more (in 1991 dollars); Class II railroads are those with annual carrier operating revenues of more than \$20 million but less than \$250 million (in 1991 dollars); and Class III railroads are those with annual carrier operating revenues of \$20 million or less (in 1991 dollars). See 49 CFR Part 1201, General Instruction 1-1(a).

¹ KCS, KCSR, GWER, Tex Mex, and Mexrail are referred to collectively as “applicants.” The application does not list Mexrail as an applicant, but Mexrail clearly is a party to the transaction. Consistent with our practice, we will treat Mexrail as an applicant. See, e.g., *Union Pacific/Southern Pacific Merger*, 1 S.T.B. 233, 241 n.3 (1996); *CSX Corp. et al.—Control—Conrail Inc. et al.*, 3 S.T.B. 196, 207 n.3 (1998).