

SURFACE TRANSPORTATION BOARD OPENS "UP/SP" TRAFFIC IN HOUSTON TO TEX MEX, TAKES OTHER STEPS TO MITIGATE RAIL SERVICE PROBLEMS IN WESTERN U.S.

Surface Transportation Board (Board) Chairman Linda J. Morgan and Vice Chairman Gus A. Owen announced today that the Board has issued an emergency service order that, among other things, permits the Texas Mexican Railway (Tex Mex) to handle traffic of the Union Pacific Railroad Company/Southern Pacific Transportation Company (UP/SP) in Houston as a means to help mitigate the rail service problems in the western United States. The Board's service order was issued as an outgrowth of the proceeding in STB Ex Parte No. 573, Rail Service in the Western United States (Service in the West), in which the Board held a 12-hour oral hearing on October 27, 1997, at which over 60 witnesses testified on the status of rail service in the western United States and on proposals for solving the service problems

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that exist.

In issuing the service order, the Board found that there is a transportation emergency that has had substantial adverse effects on shippers and on rail service in a broad region of the United States. It noted that the written and oral testimony outline in vivid detail the rail transportation problems in the West, principally involving -- although not limited to -- the services provided by UP/SP. Shippers from California to Oregon and the Midwest to the Texas Gulf testified about the difficulties they have had in moving, and sometimes even locating, their freight. Operators of rail passenger services testified about the difficulties they were facing in their efforts to achieve on-time performance in California and the Gulf region. Short line railroads testified about the difficulties they have had in moving their cars over UP/SP and in recovering empty cars already in the UP system. And state and local government agencies testified as to the commercial problems that have accompanied the service failures of the railroads serving the western part of the country.

Many shipper and railroad interests therefore suggested plans for immediate Board intervention. The suggestions ranged from short-term rerouting measures designed to relieve the pressure on particular lines or yards, to more expansive plans for replacing UP with other carriers to operate various services, to more long-term "open access"-type proposals that would fundamentally alter the way in which railroad service is currently provided. Three shipper groups -- The Society of the Plastics Industry, Inc., The National Industrial Transportation League, and the Chemical Manufacturers Association -- filed a petition explicitly seeking an emergency service order. Their petition was supported by the Burlington Northern and Santa Fe Railway Company (BNSF).

At the same time, many of the participants in the hearing -- some shippers, some railroads, the United Transportation Union, and the Federal Railroad Administration -- argued that the situation was improving, and that injecting new carriers into the mix in the West could reverse that improvement and could pose potential safety concerns. Certain of those interests urged the Board to devise contingency plans, but also to give UP/SP an additional period of time (30 to 60 days) to see if its service

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recovery plan in fact produced tangible results.

Although it acknowledged that, as a general rule, government cannot operate private businesses as well as private business can operate themselves, the Board determined that action was necessary in this case. However, recognizing that any remedy should not unreasonably impede UP/SP's own efforts to mitigate the crisis, the Board decided not to impose many of the more intrusive measures that were suggested, but instead to use Tex Mex to divert some traffic off of UP/SP and away from Houston. Additionally, given the concerns expressed by many of the participants in the hearing about BNSF's own service problems, the Board sought to impose remedies that would not materially tax BNSF's resources. Finally, as the intent of the Service in the West proceeding was to explore short-term solutions to operational problems, the Board decided not to consider long-term, open access-type proposals at this time. Additionally, the Board imposed other requirements to address other specific service matters.

A summary of the measures the Board imposed follows:

1. Tex Mex to Serve Houston Through HBT and PTRA. To relieve pressure on UP/SP, and to facilitate the movement of traffic out of Houston, Tex Mex was authorized to accept traffic routed to it by Houston shippers that are switched by the Houston Belt Terminal Railroad (HBT) and the Port Terminal Railroad Association (PTRA). UP/SP was directed to suspend the service contract obligations of all shippers at Houston that wish to route shipments over the Tex Mex instead.

2. Tex Mex Trackage Rights. To mitigate congestion over UP/SP's "Sunset Route," Tex Mex was authorized to utilize trackage rights over the Algoa route south of Houston, between Placedo, TX and Algoa, TX (a distance of 118.8 miles). In this connection, the Board required BNSF to grant Tex Mex trackage rights over its portion of the Algoa route.

3. The Caldwell to Flatonia Line. To facilitate rerouting of traffic around Houston, UP/SP was required to maintain in effect its temporary grant of trackage rights to BNSF via the Caldwell-Flatonia-Eagle Pass line, and to permit BNSF to interchange Laredo run-through traffic with Tex Mex at Flatonia if BNSF

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desires to do so.

4. Track Access. To help expedite operations, the Board required UP/SP to facilitate the existing operations of BNSF and Tex Mex in the Houston area, and to maintain open use of mainlines and sidings on the Houston-to-Memphis and Houston-to-Iowa Junction routes.

5. Augmented Reporting. To facilitate efforts to measure the progress of the recovery effort, the Board directed UP/SP to augment its current reporting by providing several categories of additional information, including information on movements of grain and coal, and terminal information for West Colton Yard in the Los Angeles area.

6. Illinois Central. To better evaluate all potential solutions, the Board directed UP/SP to respond, by November 14, 1997, to the suggestions made to it by Illinois Central Railroad (IC) as to IC's suggested measures to assist UP/SP's service recovery.

7. Specific Shipper Complaints. The Board directed UP/SP to report, by November 14, 1997, on what it has done to address the specific service concerns raised by each of the participants in the October 27 hearing.

8. Anticipated Traffic Increases. To address potential new service issues, the Board directed UP/SP and BNSF to report, by November 14, 1997, on their respective plans for meeting increased holiday service demands and increased service demands associated with the imminent grain harvest.

9. Passenger Issues. To address issues concerning problems with transit times on passenger lines operating over UP/SP, the Board directed UP/SP, Amtrak, and the Southern California Regional Rail Authority to file a joint report on the progress made at their scheduled meeting, in which each shall indicate its view of whether, in light of the meeting, unresolved issues remain, and if so, what type of Board involvement, if any, each suggests.

10. BRGI. In response to a request to expedite the handling of border traffic, the Board required UP/SP, to the extent possible, to facilitate the operations between Texas and Mexico of the

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Brownsville and Rio Grande International Railroad.

11. Further Actions. Finally, the Board stated that it will hold a hearing on December 3, 1997, at which UP/SP will address the progress it has made in relieving the service problems failures on its lines, and on whether any additional actions are necessary.

The Board's decision was issued today in the case entitled *Joint Petition For Service Order*, **STB Service Order No. 1518**.

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