

**SURFACE TRANSPORTATION BOARD DENIES FURTHER EXTENSION OF SUBSIDY,
TERMS FOR CONTINUED OPERATION OF "ILLINOIS CENTRAL" LINE BASED ON
UNCERTAIN FUTURE TRAFFIC CLAIMS**

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FOR CONTINUED OPERATION OF "ILLINOIS CENTRAL" LINE
BASED ON UNCERTAIN FUTURE TRAFFIC CLAIMS**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has denied a petition by the Freeman United Coal Mining Co. (Freeman) requesting that the Board reopen a case to reconsider the amount and duration of an earlier-imposed, two-year subsidy for the Illinois Central Railroad Company's (IC) continued operation of its 6.2-mile rail line between Pinchney and Pyatts in Perry County, Illinois. The Board based its denial, among other factors, on a finding that, particularly given recent court precedent, the uncertainty of Freeman's future traffic claims cannot justify requiring IC to keep the line intact, especially given that no traffic has moved over the line at least for the past six years. The Board also cited the one-year limit in the ICC Termination Act of 1995 (ICCTA) for Board-imposed operating subsidies.

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In August 1994, IC was granted an exemption from regulation to permit its abandonment of the out-of-service line at issue. In September 1994, Freeman filed an offer of financial assistance (OFA) to subsidize continued service along the line and, when the parties were unable to agree on the subsidy amount and terms, Freeman requested that the agency set them. In March 1995, the subsidy amount was ultimately set at \$70,894 annually for two years, providing Freeman with the opportunity to develop plans that would warrant the resumption of rail service over the line. This latter, two-year subsidy expired on April 9, 1997. On that date, Freeman filed a petition with the Board for reconsideration of the subsidy amount and duration.

In reaching its decision, the Board found that Freeman has been subsidizing the line for two years, the line has not been used for at least six years, and the evidence does not show that traffic will resume over the line in the near future. While

acknowledging that Freeman has taken action to resume coal mining operations and has discussed with IC the possibility of ash removal from a mine, the Board stated that the public record established in this case clearly shows that the mine will not be able to generate coal traffic for at least another year and that Freeman has failed to indicate when ash traffic would begin. The Board also said that extending the subsidy period “would be contrary to the letter and spirit” of the ICCTA (signed into law on December 29, 1995), which places a one-year limit on Board-imposed operating subsidies. Based on these factors, and citing recent court precedent, the Board concluded that the clearly uncertain and speculative nature of future traffic claims is such that Freeman cannot justify requiring IC to keep the line intact by continuing the subsidy.

While the Board stated that IC will now be permitted to abandon the line, it said that the parties may, of course, negotiate a subsidy agreement outside the OFA process. The Board’s decision is subject to the condition that IC must keep intact the right-of-way underlying the line, including bridges, trestles, culverts, and tunnels--but excluding track and track materials--for 180 days after the August 10, 1997, effective date of the decision, unless the property is first offered, on reasonable terms, for sale for public purposes.

The Board issued its decision in the case entitled *Illinois Central Railroad Company--Abandonment Exemption--in Perry County, IL*, Docket No. AB-43 (Sub No. 164X), on July 11, 1997.

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