

SURFACE TRANSPORTATION BOARD DISMISSES PETITION, AT PARTIES' REQUEST, FOR REVIEW OF "CANADIAN PACIFIC" TRackage RIGHTS GRANTED AS CONDITION OF "CONRAIL MERGER" APPROVAL

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision dismissing, at the parties' request, a petition asking that it revisit conditions granting trackage rights permitting the Canadian Pacific Railway Company and its affiliates (collectively, CP) to operate over certain lines now owned by CSX Corporation and CSX Transportation, Inc. (collectively, CSX), in order to serve shippers in the New York City area. The Board's dismissal was premised on the conclusion that Government intervention was unnecessary now that the parties have resolved the issues privately.

In 1998, the Board approved a proposal under which the rail assets of Consolidated Rail Corporation (Conrail) were taken over by CSX and by Norfolk Southern Corporation and Norfolk Southern Railway Company. One of the conditions the Board imposed in approving the transaction made possible new competitive service for many New York City shippers and receivers that could formerly receive rail service only from Conrail. To permit that new competitive service, the Board granted CP trackage rights over the lines of CSX from Albany, New York, to Oak Point Yard in Bronx, NY. To ensure that this condition did not contribute to an unsafe, inefficient, or operationally infeasible railroad operating environment in the congested New York City area, the Board required CP to serve its new shippers through a cost-based switching service performed by CSX into and out of Oak Point Yard, rather than having CP also operate trains itself throughout this area.[FOOTNOTE 1: "Switching" is a practice whereby Railroad A, which does not physically serve a particular point, can obtain access to traffic there by using Railroad B, which does serve that point. Railroad B, which physically provides the service, then "switches," or transfers, the traffic to Railroad A at a point where both interchange.]

Last summer, a dispute arose over two issues: whether the condition should be construed as permitting CP to handle traffic to or from Harlem River Yard directly, and whether the cost-based switching service that CSX was required to provide for CP at Oak Point Yard should be construed as including certain traffic moving through a CSX transload facility. After CP brought the matter to the Board for resolution, however, the parties indicated that they were engaging in negotiations in an effort to resolve the issues privately, and asked that Board action be withheld pending completion of the negotiations. In a joint motion filed by CP and CSX on November 4, 1999, the parties indicated that they had in fact resolved their differences privately and, as a result, the Board dismissed the proceeding.

The Board's decision was issued today in *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company--Control and Operating Leases/Agreements--Conrail Inc. and Consolidated Rail Corporation*, STB Finance Docket No. 33388 (Sub-No. 69) (Decision No. 134). It is available on the Board's web site at www.stb.dot.gov.

###