

Surface Transportation Board Reviewing Unprecedented Number of Rail Line Construction Proposals

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that, consistent with an evolving trend in recent years, there is an unprecedented number of railroad line construction proposals--11 in all--currently under Board review. The proposals vary in size, scope, and location, and involve both Class I and shortline railroads. These rail construction projects have been proposed to enable railroads to continue to provide safe and efficient freight transportation service by adding freight rail infrastructure.

Pending Cases. The construction cases currently before the Board are as follows:

- a Burlington Northern Santa Fe Railway (BNSF) proposal to construct a 7.8-mile rail line to provide alternative rail service to the Union Carbide Corporation industrial complex in Seadrift, Texas;
- an Illinois Central Railroad proposal to construct a 3.2-mile line in East Baton Rouge Parish in Louisiana to provide alternative rail service to an ExxonMobil chemical plant;
- a Norfolk Southern Railroad proposal to build 4.75 miles of new track and rehabilitate 11 miles of an existing line to provide alternative rail service to the Keystone Electrical Generating Station in Shelocata, Pennsylvania;
- a 1.8-mile construction proposed by CSX Transportation, Inc. in Walbridge, Ohio to connect the former Conrail Stanley Yard Eastern Running Track to a CSX main line;
- Dakota Minnesota & Eastern Railroad Corporation's proposal to build approximately 280 miles of new line and rehabilitate 600 miles of its existing line to provide new rail access to the low-sulphur coal reserves in the Powder River Basin;
- Midwest Generation's proposal to construct a rail line approximately 4,000 feet long to the Joliet power station in Illinois;
- the Alamo North Texas Railroad's proposal to provide new rail service to limestone quarries in Texas by constructing a rail line approximately 2 miles long;
- the San Jacinto Rail Limited-BNSF proposal to provide alternative rail service to the Bayport chemical complex near Houston, Texas by constructing a 12.8-mile line;
- a Six County Association of Governments proposal to construct a 43-mile line between Salina and Levan, Utah to provide rail service to shippers in the region;
- a Pemiscot County Port Authority plan to construct a 5-mile line to connect Port Authority facilities with a BNSF line at Hayti, Missouri; and
- the Great Salt Lake and Southern Railroad's proposed construction of a 32-mile line in Tooele County, Utah ancillary to the creation (subject to approval by the Nuclear Regulatory Commission) of an interim storage facility for spent nuclear fuel.

Overall Standards for Consideration of Construction Proposals. Under its governing statute (the ICC Termination Act, or "ICCTA"), the Board is responsible for reviewing proposals by railroads to construct new rail lines to determine whether such projects are in the public interest. The Board has noted that Congress intended to facilitate rail construction in amending section 10901 of ICCTA by shifting the emphasis from whether a project is consistent with "public convenience and necessity" to whether the project is inconsistent with public convenience and necessity. To give full effect to Congressional intent, the Board has stated that rail constructions are to be given the benefit of the doubt, and that there is now a presumption that rail construction projects will be approved.

Environmental Review Process. In addition to considering the transportation-related aspects of a rail construction proposal under the ICCTA, the Board must also take a hard look at the potential environmental impacts of such a project, as mandated by the National Environmental Policy Act (NEPA), before making any final decision. The environmental

review required by NEPA is broad in scope and directs agencies to evaluate potential project-related impacts in such areas as safety, transportation, noise, air and water quality, land use, and biological and cultural resources. In most cases where the Board approves a rail line construction, it has required the railroad to comply with specific measures designed to mitigate environmental impacts identified during the Board's environmental review process.

The public (including Federal, state and local agencies, affected communities, and members of the general public) plays an important role in the Board's environmental review, as envisioned by NEPA. In addition to frequently holding public meetings in affected locations, the Board also initially issues its environmental documents in draft form for public review and comment, and consults with appropriate Federal, state, and local agencies. The environmental review process may disclose significant environmental impacts that could result from a proposed rail line construction and that could serve as a basis for denying the construction proposal.

Past Cases. In the past five years, the Board has approved several new rail line construction cases designed to provide alternative rail service to utilities and other industries previously served by only one railroad. Such cases include Southern Electric Railroad's rail line to a coal-burning electric generating plant northwest of Birmingham, Alabama; Public Service Company of Colorado's line to the Comanche Power Station in Pueblo, Colorado; Western Farmers Electric Cooperative's line to a power station in Oklahoma; and Entergy Corporation's rail line to the White Bluff electric-generating plant in Arkansas.

In other instances, the Board has approved new rail line construction cases which provide access to plants and industries with no rail service. These construction cases include the Ellis County Rural Rail Transportation District's line to connect an industrial park in Midlothian, Ellis County, Texas with a UP rail line; and the Hastings Industrial Railroad's line to an ethanol plant in Nebraska.

Another rail construction approved jointly by the Board, in conjunction with a number of Federal and state agencies, involves the construction of a 20-mile rail corridor by the Alameda Corridor Transportation Authority connecting central Los Angeles with the Ports of Los Angeles and Long Beach, California. The multi-billion dollar project will provide improved access to the ports, which are experiencing significantly increased rail traffic, while reducing air and noise pollution as well as highway traffic congestion.

Board Handling of Cases. To process even highly complex and controversial rail construction projects in the most timely and efficient way possible, the Board handles most construction cases by first considering the transportation-related aspects of ICCTA, and later addressing environmental issues. This approach does not diminish the Board's capacity to consider environmental matters when it issues a final decision following the completion of environmental review and, if warranted, to make the grant of rail construction authority effective at that time. Because no construction may begin until the Board's final decision has been issued and become effective, all environmental issues raised in such a case are fully considered. At the same time, a railroad may use the Board's preliminary decision to help it secure financing and make other arrangements while the environmental review progresses, thus minimizing unnecessary delay in final implementation.

###