

Surface Transportation Board Denies Motion to Stay Decision Not to Require "Norfolk Southern" to Keep Open Its Hollidaysburg, PA Car Shops

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision denying a motion of the Commonwealth of Pennsylvania and rail labor interests (collectively, "movants") to stay its September 19, 2001 decision, which declined to order the Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS") to keep open the Hollidaysburg Car Shops ("Car Shops") located in Hollidaysburg, Pennsylvania, near Altoona. (See Surface Transportation Board "News" release No. 01-44 issued on that date).

Movants had previously petitioned the Board for an order blocking NS' announced shut-down of the Car Shops (initially announced for September 1, 2001, but later set to occur on or after October 1, 2001). They argued at that time that NS' closing of the Car Shops would violate the Board's condition to the 1998 approval of the joint acquisition of control by NS and CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") of Consolidated Rail Corporation ("Conrail") that the carriers adhere to the representations they made during the Conrail proceeding. As a basis for that argument, movants claimed that, after acquiring the Car Shops upon the division of Conrail's assets with CSX (June 1, 1999), NS represented that it would continue operations at the Car Shops, invest in and increase their utilization, and otherwise make the Car Shops and the nearby Juniata Locomotive Shop important parts of its post-transaction operations.

In support of their stay motion, movants argued that the Board's September 19th decision not requiring the Car Shops to remain open was "standardless" and would not likely withstand judicial review. But in today's decision denying the stay, the Board pointed out that the only issue before the Board was the question of whether NS violated the Board's "representation" condition. As the Board indicated in its decision today, while NS indeed made general commitments to the Car Shops' employees and the Altoona/Hollidaysburg area, the Board found no indication in the record of the Conrail proceeding, or elsewhere, that NS had represented that it would continue to operate the Car Shops irrespective of changing business conditions. Here, as the Board pointed out, worsening economic circumstances led NS to implement a series of significant, system-wide operational, personnel, and financial adjustments. Moreover, as the Board further observed, NS' plans to make the Car Shops viable (by increasing their utilization) was premised on an anticipated increase in its own car fleet and on "insourcing" for repair the cars of other rail carriers--plans that, in the current business environment, are simply not likely to occur. As a result, the Board found that its September 19th determination that NS did not violate the "representations" condition here was reasonable and amply supported in the record.

The Board also noted that the September 19 decision enforced NS' more general representations to the community. That decision did this by providing important, added labor protection for the Car Shops' employees that certified their eligibility for (and thus their receipt of) the significant economic benefits of the *New York Dock* conditions (up to 6 years of salary protection), and by also requiring NS to report quarterly on its efforts to keep open the Juniata Shop and its ongoing work with the Altoona/Hollidaysburg community on alternative economic development projects that would help mitigate the loss of the Car Shops, should NS proceed to close them.

Finally, having determined that NS did not represent that it would operate the Car Shops indefinitely without regard to changing business conditions, the Board determined in its decision today that it was clearly appropriate for the agency to have considered its broader public interest obligations. The Board observed that, given the size of the Car Shops and the degree of its unused capacity, ordering continued operations there, especially in light of the current business climate, could well mean idling other car repair facilities and shifting NS employees at those facilities to Hollidaysburg or elsewhere. Thus, the Board determined, it properly weighed the impact of continuing operations at the Car Shops on the rest of the NS network and its employees, declining to favor employees on one part of the NS system at the expense of employees on other parts.

For these reasons, the Board concluded that movants did not make the necessary showing to obtain a stay and denied their motion.

The Board issued its decision today in Decision No. 200 in the case entitled *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. A printed copy of the decision is available for a fee by contacting **D~2-D~ Legal, Room 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 293-7776**, or via [http://Da_To_Da@Hotmail.com](mailto:Da_To_Da@Hotmail.com). [mailto:http://DaToDa@hotmail.com](mailto:DaToDa@hotmail.com). The decision also is available for viewing and downloading via the Board's website at <http://www.stb.dot.gov>.

###