

SURFACE TRANSPORTATION BOARD ACCEPTS SEVERAL PROPOSALS FOR CONSIDERATION IN HOUSTON/GULF COAST OVERSIGHT PROCEEDING

Surface Transportation Board (Board) Chairman Linda J. Morgan announced that the Board has issued a decision accepting for consideration several proposals that have been formally submitted suggesting permanent changes to the ownership and operation of Union Pacific Railroad Company facilities in and around the Houston/Gulf Coast region. The decision requires other parties to notify the Board of their intent to participate by **August 28, 1998**; comments opposing the proposals are due by **September 18, 1998**; and rebuttal in support of the proposals is due on **October 16, 1998**.

In approving the 1996 merger of the rail carriers controlled by Union Pacific Corporation and those controlled by Southern Pacific Rail Corporation (collectively UP), the Board imposed a 5-year oversight condition to examine whether the conditions that had been imposed "effectively addressed the competitive issues they were intended to address," and it retained jurisdiction to impose additional remedial conditions if those already imposed proved insufficient. Last summer, UP experienced serious service difficulties caused by, among other things, severely congested UP lines in and around Houston that, in turn, affected rail service throughout the western United States, and the Board issued a series of decisions under its emergency service order authority to address those difficulties. In those decisions, the Board rejected, as not appropriate in the exercise of its emergency authority, proposals offered by certain shipper, carrier, and governmental interests that would have addressed the emergency by requiring UP to permanently afford access to certain of its lines in and around Houston to other rail carriers, and to divest other lines. The Board did, however, indicate that interested persons could present longer-term restructuring proposals in the merger oversight process.

In response to such a proposal filed jointly by the Texas Mexican Railway Company (Tex Mex) and Kansas City Southern Railway Company (KCS), and one filed by the Greater Houston Partnership, the Board instituted a discrete oversight proceeding to consider requests for additional conditions to the UP/SP merger for the Houston/Gulf Coast region. In its decision, the Board accepted for consideration several requests for new conditions. Parties whose requests for conditions were accepted included the following:

PARTIES TO THE "CONSENSUS PLAN" (Tex Mex/KCS, the Chemical Manufacturers Association, the Railroad Commission of Texas, the Society of the Plastics Industry, Inc., and the Texas Chemical Council) request, among other things:

- (1) Giving Tex Mex additional authority to serve the Houston area;
- (2) Providing for "neutral switching" and "neutral dispatching" throughout a broadly defined Houston switching area. Under this plan, railroads serving the Houston area would be granted expanded authority so that shippers currently served by only one carrier (in most instances, UP) could route their traffic over any carrier serving the Houston area.
- (3) Requiring UP to sell to Tex Mex its line between Rosenberg and Victoria, TX.
- (4) Requiring UP to sell or lease an existing yard in Houston (preferably the Booth Yard) to Tex Mex.
- (5) Requiring UP to allow Tex Mex/KCS to construct a new rail line on UP's right-of-way to give Tex Mex permanent access to Beaumont, TX.

BNSF made two proposals. One asks the Board to grant BNSF trackage over several UP lines, in order to give BNSF operational flexibility to avoid congestion and provide more efficient operations; to order neutral switching and dispatching supervision on certain UP lines; and to order a neutral party to provide certain operations currently provided by UP. The second proposal asks the Board to grant BNSF terminal trackage rights that would permit it to provide service over a segment of Tex Mex track and over the International Bridge at Laredo, TX.

INDIVIDUAL SHIPPERS (E.I. DuPont de Nemours and Company, Dow Chemical Company, Formosa Plastics Corporation, U.S.A., and Central Power & Light Company) sought specific conditions applicable to their service. The Greater Houston Partnership (GHP) and the National Industrial Transportation League supported several of the conditions requested by BNSF and the Consensus Plan, including the Consensus Plan's proposal for extensive neutral switching.

Other conditions were requested by Capital Metropolitan Transportation Authority, and by Kenneth B. Cotton on behalf of the Houston and Gulf Coast Railroad.

The Board's decision was issued on August 4, 1998, in Union Pacific Corp--Control and Merger--Southern Pacific Rail Corp., STB Finance Docket No. 32760 (Sub-No. 26), and related cases. **[STOP]**