

SURFACE TRANSPORTATION BOARD BEGINS COMPENSATION CASE FOR LEASE OF NO. CAROLINA RAILROAD CO. LINE, GRANTS INTERIM COMPENSATION, HOLDS CASE IN ABEYANCE PENDING NEGOTIATIONS AMONG PARTIES

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Friday, May 30, 1997 i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½
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Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has begun a proceeding involving permanent compensation for the lease of the North Carolina Railroad Company's (NCR) 317-mile railroad line between Charlotte and Morehead City, North Carolina, to subsidiaries of the Norfolk Southern Corporation (NS). While holding the proceeding in abeyance pending compensation negotiations among the parties involved, the Board also ordered interim compensation for the line's continued use by NS.

In 1995, a lease extension agreement (LEA) was approved by NS and NCR's boards of directors, subject to ratification by NCR's shareholders. NS began rental payments based on the LEA, and continued operations over the line. Ratification of the LEA by NS and NCR shareholders was scheduled for December 1995, but failed, for a lack of a quorum, when the ratification meeting was boycotted by a group of minority shareholders who objected to the negotiated compensation level. Under NCR's by-laws and the LEA, to constitute a quorum at the shareholder meeting, the holders of a majority of the shares held by shareholders other than the State of North Carolina (NC) must be represented. NC owns approximately 75% of NCR's outstanding stock. Though NS discontinued making rental payments after July 1996, it continued to operate the line.

In September 1996, NCR filed petitions with the Board seeking the prescription of interim and permanent compensation for the exclusive use of the Charlotte-Morehead City line by NS. Two NCR shareholders, the Jefferson-Pilot Life Insurance Company and Walter F. Rucker, representing himself and others (collectively, Rucker), respectively filed petitions to intervene, as did NC, which also asked the Board to hold the case in abeyance pending the parties' negotiation of a settlement. Rucker filed in support of NC's abeyance request, on the condition that interim compensation is ordered by the Board.

The Board granted NC's request to hold the case in abeyance because the Board believes the benefits of such action at this time outweigh the burdens, for several reasons. In particular, the Board said that the public record in this case indicates that NC has shown progress in acquiring the stock of the NCR minority shareholders opposed to a formerly negotiated compensation level. If NC succeeds in this effort, the Board believes, the issue of permanent compensation may be resolved more readily and possibly without further regulatory intervention.

The Board also decided, in light of its decision to hold this case in abeyance, that the need for interim compensation to NCR is readily apparent but, because neither NCR or NS has presented an acceptable proposal for setting the level of interim compensation, the Board concluded that it should be set at the level of out-of-pocket expenses incurred by NCR for NS's continued operation of the line. The Board indicated that anything less would require NCR to operate at a loss, while anything more would benefit NCR shareholders, and not NCR, and might not be recoverable, should a lesser compensation level be negotiated by the parties or set by the Board.

The Board emphasized that it will not agree to an indefinite delay of this case. Accordingly, the Board will require that NC and NCR submit monthly reports demonstrating their progress in reaching a stock buyout agreement and the means of its implementation.

The Board issued its decision in the case entitled North Carolina Railroad Company--Petition to Set Trackage Compensation and Other Terms and Conditions--Norfolk Southern Railway Company, Norfolk & Western Railway Company and Atlantic and East Carolina Railway Company, STB Finance Docket No. 33134, on May 29, 1997. **[STOP]**