

**SURFACE TRANSPORTATION BOARD DENIES "AAR" PETITION TO REOPEN  
SIMPLIFIED RAIL RATE GUIDELINES RULEMAKING, PROPOSES RULES FOR  
SIMPLIFIED RAIL RATE CASES**

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Wednesday, September 24, 1997 (202) 565-1596  
No. 97-77 TDD: (202) 565-1695

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Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has denied the petition of the Association of American Railroads (AAR) to reopen and reconsider the Board's December 1996 decision *Rate Guidelines--Non-Coal Proceedings*, Ex Parte No. 347 (Sub-No. 2) (STB served December 31, 1996), *pet. for review pending, Association of Am. Railroads v. Surface Transp. Bd.*, No. 97-1020 (D.C. Cir. filed Jan. 10, 1997). adopting simplified evidentiary guidelines to be used to assess the reasonableness of rail rates where use of constrained market pricing (CMP) is impractical. The Board also has proposed regulations governing the processing of simplified rail rate cases. AAR's petition for reopening and reconsideration, which was unanimously opposed by the shipper community, suggested that use of the simplified guidelines should be limited to cases where no more than \$300,000 is at stake. In denying AAR's petition, the Board noted that a number of mechanical tests for deciding when the simplified procedures will be applied had previously been suggested, but that there was no consensus among the parties as to an appropriate test. The December 1996 decision discussed each of the suggestions (including AAR's suggestion that the simplified guidelines should only be used in cases where the amount at stake would not exceed \$250,000) and explained why none appears to be appropriate. Rather than adopt a mechanical standard, the Board decided in its December 1996 decision to consider the specific circumstances of each case before determining whether CMP or the simplified guidelines should be used in that case. In denying the petition for reconsideration, the Board noted that AAR's proposed \$300,000 limit was not a material change in its position, but merely an attempt to reargue an issue that had been resolved in the December 1996 decision. The Board further noted its commitment to resolve expeditiously--with minimal costs to parties--the issue of which rate reasonableness procedure to use in a particular case.

In a related matter, the Board issued a decision proposing and seeking comment on regulations governing the processing of simplified rail rate cases. The proposed

rules would establish a 50-day period during which the Board will determine whether the simplified rate complaint procedures could be used, or whether, instead, a case would have to be processed under the generally applicable CMP principles. The proposed rules, however, declined, at this time, to establish a general procedural schedule to govern the filing of evidence once a determination has been made that the simplified rate complaint procedures can be used in a particular case. The Board concluded that, until it gains more experience under the new guidelines, it would set procedural schedules for the gathering of evidence in non-CMP rate cases on a case-by-case basis. Nevertheless, once the evidence is gathered in these cases, the Board will issue a final decision within 6 months.

The Board's decision denying AAR's petition for reconsideration and rehearing was issued to the public today in *Rate Guidelines--Non-Coal Proceedings*, Ex Parte No. 347 (Sub-No. 2). The Board's notice proposing new rules governing the processing of simplified rate complaint cases was issued today in *Expedited Procedures for Processing Rail Rate Reasonableness Proceedings*, STB Ex Parte No. 527 (Sub-No. 1).

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