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SERVICE DATE – LATE RELEASE APRIL 2, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35496

DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION D/B/A DENVER &
RIO GRANDE RAILROAD, L.L.C.—PETITION FOR DECLARATORY ORDER

Decided: April 2, 2012

The Denver & Rio Grande Railway Historical Foundation, Inc. (DRGHF), a Class III railroad, filed a petition on July 12, 2011, asking the Board to declare that 49 U.S.C. § 10501(b) preempts municipal zoning law with respect to DRGHF's activities on a parcel of land leased by DRGHF in Monte Vista, Colo. By decision served on February 23, 2012, the Board instituted a declaratory order proceeding to address this issue and directed the parties to comply with the procedural schedule provided in the decision. The procedural schedule, among other requirements, directed DRGHF to file opening evidence by March 26, 2012.

On March 26, 2012, DRGHF submitted a letter requesting an extension of time until April 9, 2012 to file its opening evidence. DRGHF asserts that it did not receive a copy of the Board's February 23, 2012 decision and that its President was away from his office for three weeks in March for business and medical reasons.

On March 27, 2012, the San Luis & Rio Grande Railway (SLRG) submitted a letter opposing DRGHF's requested extension. SLRG questions DRGHF's claim that it was not aware of the Board's February 23, 2012 decision, because SLRG sent DRGHF a discovery request with a transmittal letter stating that the Board had set April 26, 2012 as the deadline for SLRG's reply. SLRG attaches a certified mail receipt for this letter, signed by DRGHF's President on March 6, 2012. DRGHF submitted a letter replying to SLRG's reply on March 29, 2012.

Notwithstanding the apparent notice DRGHF received through SLRG's discovery transmittal letter, DRGHF has presented additional extenuating circumstances, including a medical emergency, which support the requested extension. Thus, DRGHF's request for an extension of time will be granted for good cause shown, and the procedural schedule will be extended by two weeks. The parties shall comply with the procedural schedule set forth in Ordering Paragraph 2 below.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. DRGHF's request for an extension of time is granted.
2. DRGHF's opening evidence is due by April 9, 2012. Replies are due by May 10, 2012. DRGHF's rebuttal is due by May 25, 2012.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.