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SEC

SERVICE DATE - LATE RELEASE DECEMBER 1, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33134

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

Decided: December 1, 1998

On September 23, 1996, North Carolina Railroad Company (NCRR) filed petitions seeking the prescription of interim and permanent compensation for the exclusive use of its 317-mile rail line between Charlotte and Morehead City, NC (the line), by operating subsidiaries¹ of Norfolk Southern Corporation. In a decision served May 29, 1997 (May 1997 decision), the Board instituted a proceeding and prescribed interim compensation, but placed the proceeding in abeyance pending a proposed buyout by the State of North Carolina (the State) of minority shareholders² and the subsequent reopening of lease negotiations.³ The due date for petitions to reopen the May 1997 decision was later extended to December 1, 1998.⁴

On November 30, 1998, NCRR and NS filed a joint motion for an additional extension of time to March 1, 1999 (90 days). They express their belief that an extension would facilitate negotiations and avoid litigation over the interim compensation.⁵ Reportedly, the State consents to the proposed extension, and counsel for the Rucker interveners has been notified. The extension

¹ Norfolk Southern Railway Company, Norfolk & Western Railway Company, and Atlantic and East Carolina Railway Company (collectively, NS).

² The State, NCRR's majority shareholder, and minority shareholders Jefferson-Pilot Life Insurance Company (Jefferson-Pilot) and Walker F. Rucker (Rucker), representing himself and others, were granted leave to intervene. Jefferson-Pilot subsequently withdrew from the proceeding.

³ Dissension among the private shareholders of NCRR over a negotiated lease had precipitated the compensation dispute.

⁴ In a decision served July 7, 1997, the due date was extended indefinitely to a date later determined to be June 30, 1998 (90 days after consummation of the State's April 1, 1998 acquisition of all the outstanding common stock of NCRR). In a decision served June 30, 1998, the due date was again extended to December 1, 1998.

⁵ The parties are simultaneously negotiating a settlement of a Federal judicial proceeding, NCRR v. Norfolk Southern, No. 5:96-CV-900-BO(3) (E.D.N.C.), involving related issues.

request is reasonable and will be granted.

It is ordered:

1. The due date for filing petitions to reopen the Board's decision, served May 29, 1997, is extended to March 1, 1999.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary