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SEC

SERVICE DATE - NOVEMBER 23, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33652

UNION PACIFIC RAILROAD COMPANY--ACQUISITION AND OPERATION
EXEMPTION--MID MICHIGAN RAILROAD, INC.

Decided: November 13, 1998

By petition filed August 25, 1998, Union Pacific Railroad Company (UP) seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323-25 for the acquisition and operation of a 107.3-mile line of railroad owned by Mid Michigan Railroad, Inc., extending from milepost 0.4 at Saint Joseph, MO, to milepost 107.7 at Upland, KS, in Doniphan, Brown, Nemaha, and Marshall Counties, KS, and Buchanan County, MO.

On September 24, 1998, the Kansas Department of Transportation (KDOT) filed a protest seeking dismissal of the proceeding or, in the alternative, holding the matter in abeyance pending resolution of a contract issue it raises. UP filed a reply to the protest on October 7, 1998.

KDOT filed a "response" to UP's reply on October 28, 1998. Finally, on November 12, 1998, UP filed a Motion for Leave to Reply to KDOT's October 28 filing and filed the reply itself on the same date.¹

The pleadings filed in this proceeding raise issues that require consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 10502(b) to consider UP's petition and the issues raised by KDOT. At this time, there does not appear to be a need for the parties to submit additional evidence.

It is ordered:

1. UP's Motion for Leave to Reply is granted.
2. Under 49 U.S.C. 10502(b), a proceeding is instituted to consider UP's petition and KDOT's protest.
3. The proceeding will be completed by August 23, 1999.

¹ Although technically these pleadings are not permitted under 49 CFR 1104.13, we will accept them for filing in the record as no party would be harmed by their admission.

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4. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary