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SEC

SERVICE DATE - JANUARY 18, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33820

CENTRAL OF TENNESSEE RAILWAY & NAVIGATION COMPANY
INCORPORATED DBA THE LONGHORN RAILWAY COMPANY—
PETITION FOR DECLARATORY ORDER

Decided: January 14, 2000

Central of Tennessee Railway & Navigation Company Incorporated doing business as The Longhorn Railway Company (LHRR), the operator of a 162-mile rail line between Giddings and Llano, TX,¹ filed a petition for a declaratory order on November 12, 1999. LHRR alleges that Capital Metropolitan Transportation Authority (CMTA), owner of the Giddings-Llano line,² is engaged in a pattern of behavior that is inconsistent with the latter's common carrier obligation, and that this pattern of behavior is impeding LHRR's ability to carry out its own common carrier obligation as operator of, and forcing it to discontinue freight service to, the Giddings-Llano line. On December 17, 1999, CMTA replied, filing a motion to dismiss based on jurisdictional and ripeness issues. Additionally, CMTA petitioned, in the alternative, for a stay of the proceeding until the completion of mandatory, non-binding mediation scheduled for late January or early February

¹ Central of Tennessee Railway & Navigation Company Incorporated d/b/a The Longhorn Railway Company—Change of Operator Exemption—The City of Austin, TX, STB Finance Docket No. 32885 (Sub-No. 1) (STB served Aug. 18, 1996) [Austin Railroad Company doing business as Austin & Northwestern Railroad (AUNR) was the former operator of the Giddings-Llano line, see Austin Railroad Company—Operation Exemption—City of Austin, TX, Finance Docket No. 30861-B (ICC served Nov. 4, 1986)] (Austin Railroad).

² Ownership of the Giddings-Llano line apparently was transferred from the city of Austin, TX (Austin), to CMTA on May 20, 1998. Austin had acquired the Giddings-Llano line from Southern Pacific Transportation Company, City of Austin, TX—Acquisition—Southern Pacific Transportation Company, Finance Docket No. 30861(A) (ICC served and published at 51 FR 40085 on Nov. 4, 1986), had entered into a 10-year contract for AUNR to operate the Giddings-Llano line, Austin Railroad, supra, and was granted an exemption from regulation in City of Austin, TX—Exemption—From 49 U.S.C. Subtitle IV, Finance Docket No. 30861(A) (Sub-No. 1) (ICC served and published at 51 FR 40085 on Apr. 23, 1987).

2000,³ or, if mediation fails, until a decision is issued by the Texas state courts in response to the lawsuit LHRR allegedly threatened to file.⁴

In a decision served January 5, 2000, LHRR was granted an extension until January 21, 2000, to file a reply. On January 13, 2000, LHRR filed a petition requesting that the reply due date be extended 20 additional days, to February 10, 2000. LHRR states that the further extension is necessary because its attorney has been ill for the last 2 weeks and has been hospitalized. LHRR states that CMTA has been notified and is not opposed to the additional extension. The extension request is reasonable under the circumstances and will be granted.

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

It is ordered:

1. The due date for LHRR's reply is further extended to February 10, 2000.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

³ CMTA stated that LHRR is contractually required to mediate before filing a lawsuit and that LHRR filed for mediation in state court in Texas on November 17, 1999.

⁴ CMTA stated that LHRR had given it a draft of its state court lawsuit.