

43336  
DO

SERVICE DATE – OCTOBER 23, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42136

INTERMOUNTAIN POWER AGENCY  
v.  
UNION PACIFIC RAILROAD COMPANY

ORAL ARGUMENT

Decided: October 22, 2013

The Surface Transportation Board will hold oral argument on Thursday, November 14, 2013, at 9:30 a.m., in the hearing room at the Board's headquarters located at 395 E Street, S.W., Washington, DC. The argument will address the complaint of Intermountain Power Agency (IPA) challenging the reasonableness of rates established by Union Pacific Railroad Company (UP) for unit train coal transportation service from a point of interchange with the Utah Railway Company at Provo, Utah, to IPA's electric generating facilities at Lynndyl, Utah. The oral argument will be open for public observation, but only counsel for the parties will be permitted to present arguments.

IPA filed its complaint on May 30, 2012, and filed its opening evidence on December 17, 2012. UP filed its reply evidence on April 12, 2013. IPA filed its rebuttal evidence on July 3, 2013, and the parties filed final briefs on August 14, 2013. On August 29, 2013, IPA filed an unopposed motion requesting that the Board hold an oral argument in this proceeding. In their final briefs, the parties dispute numerous issues, among them whether certain traffic in IPA's Stand-Alone Cost model includes an improper cross-subsidy and whether the Board should apply a new cross-subsidy test proposed by UP to replace the Board's existing test. Parties should focus their argument on the cross-subsidy issues in addition to any other issues they consider important.

By November 7, 2013, each party shall submit to the Board the name of the counsel who will be presenting argument, and the name of the party counsel will be representing. IPA shall have 20 minutes to present its argument, and UP shall have 20 minutes to present its argument. IPA, in its filing, shall address the requested time reserved for rebuttal, if any.

Counsel for the parties shall check in with Board staff in the hearing room prior to the argument.

A video broadcast of the oral argument will be available via the Board's website at <http://www.stb.dot.gov>, under "Information Center"/"Webcast"/"Live Video" on the home page.

Instructions for Attendance at Argument

The STB requests that all persons attending the argument use the Patriots Plaza Building's main entrance at 395 E Street, S.W. (closest to the northeast corner of the intersection of 4th and E Streets). There will be no reserved seating, except for those scheduled to present oral arguments. The building will be open to the public at 7:00 a.m., and participants are encouraged to arrive early. There is no public parking in the building.

Upon arrival, check in at the 1st floor security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or Federal government identification); sign-in at the security desk; receive a hearing room pass (to be displayed at all times); submit to an inspection of all briefcases, handbags, etc.; then pass through a metal detector. Persons choosing to exit the building during the course of the argument must surrender their hearing room passes to security personnel and will be subject to the above security procedures if they choose to re-enter the building. Hearing room passes likewise will be collected from those exiting the argument upon its conclusion.

Laptops and recorders may be used in the hearing room, but no provision will be made for connecting personal computers to the Internet. Cellular telephone use is not permitted in the hearing room; cell phones may be used quietly in the corridor surrounding the hearing room or in the building's main lobby.

The Board's hearing room complies with the Americans with Disabilities Act, and persons needing such accommodations should call (202) 245-0245 by the close of business on November 13, 2013.

For further information regarding the oral argument, contact Jonathon Binet, (202) 245-0368. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

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

It is ordered:

1. Oral argument in this proceeding will be held on November 14, 2013, at 9:30 a.m. in the Surface Transportation Board Hearing Room, at 395 E Street, S.W., Washington, DC, as described above.
2. By November 7, 2013, the participants shall submit to the Board the names of the counsel who will be presenting argument and the name of the party counsel will be representing. IPA and UP, in their filings, also shall advise the Board how they choose to divide their time and address the requested time reserved for rebuttal, if any.

3. This decision is effective on the date of service.

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