

SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 647

CLASS EXEMPTION FOR EXPEDITED ABANDONMENT PROCEDURE  
FOR CLASS II AND CLASS III RAILROADS

Decided: August 24, 2004

As indicated in its decision served on August 3, 2004 (August 3 Decision), the Board will hold a public hearing in this proceeding on Tuesday, August 31, 2004, beginning at 10:00 a.m., in Room 760 (the Board's Hearing Room), at the Board's headquarters in the Mercury Building, 1925 K Street, N.W., Washington, D.C.

As provided in the August 3 Decision, parties wishing to speak at the hearing were instructed to advise the Board of their intent to participate and request a time allotment by no later than August 20, 2004, if they had not already done so. Notices of intent to speak were filed by: the group of sixty-five short-line and regional carriers<sup>1</sup> who filed the original petition for

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<sup>1</sup> The sixty-five carriers are: Allegheny & Eastern Railroad, Inc.; Bradford Industrial Rail, Inc.; Buffalo & Pittsburgh Railroad, Inc.; Carolina Coastal Railway, Inc.; Commonwealth Railway, Inc.; Chicago SouthShore & South Bend Railroad; Chattahoochee & Gulf Railroad Co., Inc.; Connecuh Valley Railroad Co., Inc.; Corpus Christi Terminal Railroad, Inc.; The Dansville & Mount Morris Railroad Company; Eastern Idaho Railroad, Inc.; Genesee & Wyoming Railroad Company; Golden Isles Terminal Railroad, Inc.; H&S Railroad Co., Inc.; Illinois Indiana Development Company, LLC; Illinois & Midland Railroad Company, Inc.; Kansas & Oklahoma Railroad, Inc.; Knoxville & Holston River Railroad Co., Inc.; Lancaster and Chester Railway Company; Laurinburg & Southern Railroad Co., Inc.; Louisiana & Delta Railroad, Inc.; Louisville & Indiana Railroad Company; Minnesota Prairie Line, Inc.; Montana Rail Link, Inc.; New York & Atlantic Railway Company; Pacific Harbor Line, Inc.; Palouse River & Coulee City Railroad, Inc.; Pennsylvania Southwestern Railroad, Inc.; Piedmont & Atlantic Railroad Inc.; Pittsburgh & Shawmut Railroad, Inc.; Portland & Western Railroad, Inc.; Rochester & Southern Railroad, Inc.; Rocky Mount & Western Railroad Co., Inc.; St. Lawrence & Atlantic Railroad Company; Salt Lake City Southern Railroad Company; Savannah Port Terminal Railroad, Inc.; South Buffalo Railway Company; South Kansas & Oklahoma Railroad Company; Stillwater Central Railroad; Talleyrand Terminal Railroad, Inc.; Three Notch Railroad

(continued...)

rulemaking to create a new class exemption in this proceeding (petitioners); the Association of American Railroads (AAR); the United Transportation Union; and the Rail Labor Division of the Transportation Trades Department, AFL-CIO (RLD) and its affiliated organizations.<sup>2</sup> John D. Fitzgerald, General Chairman for United Transportation Union (GO-386), on the lines of The Burlington Northern and Santa Fe Railway Company, submitted testimony for consideration by the Board, but will not appear at the oral hearing.

Eleven other Class III rail carriers<sup>3</sup> have indicated their support of the relief sought by the petitioners and state that counsel for petitioners will make an oral presentation jointly on their behalf. RailAmerica, Inc., the National Grain and Feed Association and the West Virginia Department of Transportation each filed a letter indicating that it would not participate in the oral hearing, but reserved the right to file written comments to any rulemaking procedures that may be instituted by the Board. Pioneer Railcorp, and its seventeen Class III railroad subsidiaries, filed a letter urging the Board to deny the petition, but does not intend to participate in the oral hearing and reserves the right to make further comments on any action arising from the hearing.

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<sup>1</sup>(...continued)

Co., Inc.; Timber Rock Railroad, Inc.; Twin Cities & Western Railroad Company; Utah Railway Company; Willamette & Pacific Railroad, Inc.; Wiregrass Central Railroad Company, Inc.; York Railway Company; AN Railway, LLC; Atlantic and Western Railway, Limited Partnership; Bay Line Railroad, LLC; Central Midland Railway; Copper Basin Railway, Inc.; East Tennessee Railway, L.P.; Galveston Railroad, L.P.; Georgia Central Railway, L.P.; The Indiana Rail Road Company; KWT Railway, Inc.; Little Rock & Western Railway, L.P.; M & B Railroad, L.L.C.; Tomahawk Railway, Limited Partnership; Valdosta Railway, L.P.; Western Kentucky Railway, LLC; Wheeling & Lake Erie Railway Company; Wilmington Terminal Railroad, L.P.; and Yolo Shortline Railroad Company.

<sup>2</sup> The affiliated organizations are: American Train Dispatchers Department; Brotherhood of Locomotive Engineers and Trainmen; Brotherhood of Maintenance of Way Employes; Brotherhood of Railroad Signalmen; International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; National Council of Firemen and Oilers SEIU; Sheet Metal Workers International Association; Transportation Communications International Union; Transport Workers Union of America.

<sup>3</sup> The eleven carriers are: Denver Rock Island Railroad Company; Heart of Georgia Railroad, Inc.; Iowa Traction Railroad Company; Minnesota Commercial Railway Company; Minnesota Northern Railroad, Inc.; Mississippi & Tennessee Railroad, Inc.; NEBKOTA Railway, Inc.; Progressive Rail Incorporated; Railroad Switching Service of Missouri, Inc.; Rio Valley Switching Company; and Winamac Southern Railroad Company.

The Board is issuing this decision to set a schedule for the hearing. The schedule of appearances and the time provided for each party appear in the Appendix to this decision. The hearing will provide a forum for the oral discussion of petitioners' proposed class exemption and any other proposals that interested persons might wish to offer to amend the Board's abandonment regulations. As the Board will have read any written submissions in advance of the hearing, witnesses need not read their written submissions at the hearing, but should summarize their key points. The time allocations set forth in the Appendix are sufficient for these purposes.

If a party wishes to enhance its presentation by using projector-adaptable visual displays and/or handouts, it may do so. Staff will be available to demonstrate the Hearing Room's projection system on August 30, 2004, from 2 p.m. to 4 p.m. Please call (202) 565-1618 to make arrangements.

Quiet laptops and tape recorders may be brought into the Hearing Room, but no provision will be made for the connection of personal computers to Board telephone lines. Cellular telephone use is not permitted in the Hearing Room, or in the rear anteroom. Cellular phones may be used only outside the Hearing Room.

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

It is ordered:

1. Time for the hearing is allotted as reflected in the Appendix to this decision.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary

**APPENDIX**  
**SCHEDULE OF APPEARANCES**

<b><u>PARTY</u></b>	<b><u>TIME ALLOTTED</u></b>
Petitioners	<b>30 minutes</b>
Speaker: Mark H. Sidman (Weiner, Brodsky, Sidman, Kider P.C.)	
Note: Petitioners will open, and may reserve part of their time for rebuttal	
AAR	<b>15 minutes</b>
United Transportation Union	<b>15 minutes</b>
Speaker: Daniel R. Elliot, III	
RLD	<b>15 minutes</b>
Speaker: Mitchell Kraus	