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SEC

SERVICE DATE - JUNE 30, 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: June 29, 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 (abeyance decision), the Board instituted a proceeding and prescribed interim compensation, but placed the proceeding in abeyance pending a negotiated buyout of minority shareholders and the subsequent reopening of lease negotiations.² Minority shareholders Jefferson-Pilot Life Insurance Company (Jefferson-Pilot) and Walker F. Rucker (Rucker),³ representing himself and others, were granted leave to intervene along with the State. Subsequently, in a decision served July 7, 1997, the due date for petitions to reopen the abeyance decision was extended to a date 90 days after consummation of the State's acquisition of NCRR or the failure of acquisition negotiations.

On April 23, 1998, NCRR reported that the State had acquired all of the outstanding common stock of NCRR on April 1, 1998. Subsequently, on May 8, 1998, Jefferson-Pilot filed a motion for leave to withdraw on the grounds that it no longer has any continuing interest in this proceeding. The motion will be granted.

Based on the April 1, 1998 consummation date, petitions to reopen the abeyance decision became due on June 30, 1998. On June 24, 1998, NCRR and NS filed a joint motion to extend the June 30 due date to December 1, 1998. The parties note that their pending Federal court

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

² The State of North Carolina (the State), NCRR's majority shareholder, had proposed a buyout of the private shareholders of NCRR whose dissension over a negotiated lease had precipitated the compensation dispute.

³ Mr. Rucker was misidentified in the abeyance decision as Walter F. Rucker.

proceeding⁴ involving the line has been stayed until that date and that they are attempting to negotiate a settlement of the matters at issue before both the Board and the court. They express their belief that an extension would facilitate negotiations and avoid litigation over the interim compensation. Reportedly, the State consents to the proposed extension, and counsel for the Rucker interveners has been notified. The extension request is reasonable and will be granted.

It is ordered:

1. Intervener Jefferson-Pilot Life Insurance Company is granted leave to withdraw.
2. The due date for filing petitions to reopen the Board's decision, served May 29, 1997, is extended to December 1, 1998.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

⁴ NCRR v. Norfolk Southern, No. 5:96-CV-900-BO(3) (E.D.N.C.).