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SERVICE DATE - OCTOBER 22, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 628

EXPEDITED RELIEF FOR SERVICE INADEQUACIES

Decided: October 21, 1998

BY THE BOARD:

In a decision issued on October 15, 1998, and published in the Federal Register on October 20, 1998, we sought comments on a request filed by the American Short Line and Regional Railroad Association (ASLRRA) asking the Board to expand the service options available to a smaller railroads when the service of a larger connecting railroad is disrupted. Because ASLRRA's pleading (which was filed in STB Ex Parte No. 575, Review of Rail Access and Competition Issues) sought relief that is complementary to, if not already embraced in, this proceeding, we sought comments in this proceeding.

In a petition filed on October 16, 1998, the Western Coal Traffic League (WCTL) seeks reconsideration of our October 15 decision.¹ WCTL recognizes that ASLRRA asked us to provide relief from "paper" barriers -- contractual provisions limiting the carriers with which a small railroad may interchange traffic -- only in the context of service disruptions. However, WCTL states, paper barriers raise issues that require a review broader than that suggested by ASLRRA. WCTL states that we should, in the context of the Ex Parte No. 575 proceeding, give "the public . . . an opportunity to address not only the specific relief sought by ASLRRA, but the merits of an approach to interchange barriers that takes account of unjustified, adverse impacts on shippers and short-lines beyond pure service obstacles."

DISCUSSION AND CONCLUSIONS

WCTL's petition will be denied. In Ex Parte No. 575, we directed large and small railroads to meet and discuss a variety of issues of concern to railroads and to the shipping public. Last month, after many months of extensive negotiations, the large and small railroads entered into a broad "Railroad Industry Agreement" (the RIA). Except for procedures that might govern during periods of disrupted service -- the matter brought to us by ASLRRA -- the parties to the RIA reached a comprehensive agreement on the issue of paper barriers.

¹ Actually, WCTL filed a reply to ASLRRA's request at approximately 4:30 p.m. on October 15, 1998; but as our decision had already been served earlier that same day, WCTL has asked us to treat its reply as a petition for reconsideration.

Apparently not satisfied with the way in which the RIA addresses paper barriers, WCTL seeks to revisit the matter here. ASLRRRA, however, raised a discrete issue (mitigating the impact of service disruptions on small railroads) that is intimately tied to the issue initially addressed in this proceeding (mitigating the impact of service disruptions on shippers). Considering ASLRRRA's request in this proceeding will enable us to provide a single, comprehensive procedure for addressing service disruptions.

WCTL's approach, in contrast, would disrupt this proceeding by removing one of its natural components to a different proceeding. It would also take what is now a relatively manageable, narrow issue (how to mitigate the impact of service disruptions on small carriers) and tie it up with a far-ranging and less defined inquiry regarding efficiency, access, and competition in the railroad industry. By this decision, we express no position one way or the other as to those issues. Because consideration of those issues in the context of the ASLRRRA request would impede resolution of the service proceeding, however, WCTL's petition will be denied.

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

It is ordered:

1. WCTL's petition is denied.
2. This decision is effective upon its service.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary