

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34479

ARKANSAS MIDLAND RAILROAD COMPANY, INC.–ALTERNATIVE RAIL
SERVICE–LINE OF DELTA SOUTHERN RAILROAD, INC.

Decided: July 30, 2004

We are granting a request by Arkansas Midland Railroad Company (AKMD) for an extension of the emergency service authority issued in a decision served on March 19, 2004, and extended in a decision served on May 4, 2004.

BACKGROUND

This proceeding began when AKMD filed a petition for emergency service authority pursuant to 49 U.S.C. 11123 and 49 CFR part 1146 to provide alternative rail service on a Union Pacific Railroad Company (UP)-owned line extending from milepost 422.32 in Dermott, AR, to milepost 461.74 at Warren, AR (Line), and to conduct interchange operations on UP's Dermott-McGehee line. In a decision served on March 19, 2004, the Board granted AKMD's petition, and it began service on April 5, 2004. In a decision served on May 4, 2004, the Board extended AKMD's service authority to August 3, 2004.

In a petition filed on July 23, 2004, AKMD seeks an extension of its service authority until December 31, 2004. AKMD states that the previous leaseholder, Delta Southern Railroad, Inc. (Delta), has voluntarily withdrawn from the Line. AKMD submits that Delta was not in a position to resume operations on the Line. While UP and AKMD have discussed a permanent lease or transfer of the Line to AKMD, no agreement has been reached concerning future permanent arrangements. According to AKMD, in the absence of an extension, rail service on the Line would likely shut down again at the end of the current authority. AKMD states its belief that Delta, UP, and the shippers on the Line do not oppose the extension request. On July 29, 2004, Potlatch Corporation, a shipper on the Line, filed a reply in support of AKMD's extension request.

DISCUSSION AND CONCLUSIONS

Alternative rail service orders may not exceed 30 days initially (49 U.S.C. 11123(a)), but may be extended for an additional 240 days, if the Board finds a transportation emergency continues to exist (49 U.S.C. 11123(c)(1)). Unless otherwise indicated in the Board's order authorizing alternative rail service, the order establishes a rebuttable presumption that the transportation emergency will continue beyond the initial 30-day period. 49 CFR 1146.1(c).

There has been no objection filed to the extension request. The evidence in this case confirms that the transportation emergency continues to exist and that an extension of the alternative rail service order is appropriate. Rather than extending the service authorization for the full statutory period (until December 31, 2004) at this time, however, we will extend that authorization only until November 1, 2004. This extension should provide the parties sufficient time to reach permanent arrangements for future operations on the Line, while in the interim preserving rail service to shippers. In the event that permanent arrangements have not been worked out by November 1, the Board could, upon receiving a request prior to that date, extend the authorization by up to 60 more days. Accordingly, AKMD will be authorized to perform alternative rail service on the Line and to conduct interchange operations on UP's Dermott-McGehee line until November 1, 2004, 210 days from when AKMD began operations. We urge the parties to reach the necessary agreements that would provide for service to shippers on a more permanent basis as quickly as possible so that there will be no need to extend the current service authorization beyond November 1, 2004.

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

It is ordered:

1. AKMD's petition for an extension of its emergency service authority is granted, and AKMD is authorized to perform alternative rail service on the Line, and to conduct interchange operations on UP's Dermott-McGehee line, until November 1, 2004.
2. This decision is effective on its date of service.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams
Secretary