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SERVICE DATE - LATE RELEASE MARCH 30, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 132X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN RIO GRANDE AND MINERAL COUNTIES, CO

Decided: March 30, 1999

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon and discontinue service over a 21.6-mile line of railroad known as the Creede Branch, extending from milepost 299.3 near Derrick to the end of the line at milepost 320.9 at Creede, in Rio Grande and Mineral Counties, CO. Notice of the exemption was served and published in the Federal Register on January 25, 1999 (64 FR 3740-41). Under 49 CFR 1152.50(d)(3), the exemption was scheduled to become effective on February 24, 1999, but formal expressions of intent to file an offer of financial assistance (OFA) were timely filed by the February 4, 1999 due date by the Denver & Rio Grande Railway Historical Foundation (D&RGHF) (to purchase or to acquire by donation the entire line), by South Fork-Creede Railway Corridor Preservation, Group Inc. (SFCR) (to purchase the entire line), and by the Rio Grande & San Juan Railroad Co. (RG&SJ) (to purchase the entire line). These filings automatically stayed the effective date of the exemption until March 6, 1999.

SFCR and RG&SJ also requested UP to provide the financial data and information prescribed in 49 CFR 1152.27(a). UP was unable to provide the information until March 12, 1999. Accordingly, in a decision served February 23, 1999, the due date for OFAs was extended to March 26, 1999, and the effective date of the exemption was extended to April 5, 1999.

RG&SJ filed a timely OFA on March 26, 1999, and has been found financially responsible in a decision served today. The effective date of the exemption has been accordingly postponed. D&RGHF filed, on March 26, 1999, a request for a 5-day extension of the due date for filing its OFA. D&RGHF states that it was expecting to receive shortly documentation supporting a funding commitment.

Ordinarily, the Board requires strict adherence to its self-imposed time frames for disposition of abandonment proceedings. These time frames are derived from strict statutory deadlines, which reflect the Congressional intent that rail carriers not be burdened with unprofitable lines for any longer than necessary. Under the unique circumstances of this case, however, an exception appears to be appropriate, as the effective date of the exemption is already being postponed as a result of RG&SJ's OFA. Moreover, the proposed extension is short enough to permit a finding regarding D&RGHF's financial responsibility to be made on the deadline date of March 31, 1999, or shortly thereafter. If D&RGHF is found to be financially responsible, then UP will have a choice of offerors with which to negotiate. Thus, its rights should not be impaired.

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

It is ordered:

1. The time for Denver & Rio Grande Railway Historical Foundation to file an offer of financial assistance is extended until March 31, 1999.

2. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary