

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34178

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION AND CEDAR  
AMERICAN RAIL HOLDINGS, INC. — CONTROL — IOWA, CHICAGO & EASTERN  
RAILROAD CORPORATION

Decision No. 5

Decided: November 15, 2002

In Decision No. 2 served on September 26, 2002, and published September 27, 2002, in the Federal Register at 67 FR 61188-94, the Board accepted for consideration the DME-2 primary application and the undesignated related filings filed August 29, 2002, by Dakota, Minnesota & Eastern Railroad Corporation (DM&E), Cedar American Rail Holdings, Inc. (Holdings), and Iowa, Chicago & Eastern Railroad Corporation (IC&E),<sup>1</sup> and issued the procedural schedule to be followed in this proceeding. Any person who wished to participate in this proceeding as a Party of Record had to file with the Board, no later than October 15, 2002, an original and 25 copies of a notice of intent to participate, accompanied by a certificate of service, indicating that the notice had been properly served on the Secretary of the United States Department of Transportation, the Attorney General of the United States, and applicants' representatives. In Decision No. 2, the Board indicated that it would serve, as soon as practicable, a notice containing the official service list.

By Notice to the Parties served on October 24, 2002 (Decision No. 4), the Board issued the service list for this proceeding which was compiled from the notices of intent to participate submitted in accordance with the procedural schedule set forth in Decision No. 2. Any requests to change or correct service list information, or to be deleted from the service list, had to be filed in writing with the Board by October 31, 2002.

On November 13, 2002, the Board received a late-filed notice of intent to participate in this proceeding from counsel for Muscatine Power and Water (MPW). MPW indicated that it had served the appropriate parties as required by the Board's September 26, 2002 decision. However, MPW did not serve the remaining parties of record shown on the October 24, 2002 service list. The procedural schedule issued in this proceeding set November 14, 2002, as the due date for all comments, protests,

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<sup>1</sup> DM&E, Holdings, and IC&E are referred to collectively as applicants.

requests for conditions, and any other evidence and argument in opposition to the primary application and/or either or both of the related filings, including filings of the U.S. Department of Justice and the U.S. Department of Transportation.

Because MPW did not timely file its notice of intent to participate, nor did it properly serve all parties of record shown on the October 24, 2002 service list, MPW's notice of intent to participate in this proceeding is being rejected.

If MPW wishes to participate in this proceeding, it may file a petition for leave to intervene, accompanied by its actual comments, showing service on all parties of record as indicated in Decision No. 4, but any such petition and comments must be received at the Board by 5:00 p.m., Friday, November 22, 2002.

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

It is ordered:

1. MPW's notice of intent to participate is rejected.
2. MPW may file a petition for leave to intervene in this proceeding, accompanied by its actual comments, showing service on all parties of record as indicated in Decision No. 4, no later than 5:00 p.m., Friday, November 22, 2002.
3. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary