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SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 32760 (Sub-No. 21)

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY, AND MISSOURI PACIFIC RAILROAD COMPANY--CONTROL AND MERGER--SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP., AND THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

[OVERSIGHT]

(Decision No. 6)

Decided: July 25, 1997

In Decision No. 1, which was served May 7, 1997, and published that day in the *Federal Register* at 62 FR 25014, the Board instituted a proceeding to implement the oversight condition imposed in *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company--Control and Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company*, Finance Docket No. 32760, Decision No. 44 (STB served Aug. 12, 1996). In instituting this oversight proceeding, the Board ordered that any comments on the competitive effects of the merger and the implementation of the conditions imposed to address competitive harms would be due on August 1, 1997, and that any replies to such comments would be due on August 20, 1997. *See* Decision No. 1, slip op. at 2, 62 FR at 25014.

In Decision No. 5, served on July 23, 1997, upon request of the United States Department of Agriculture (USDA), we modified the procedural schedule by setting August 15, 1997, as the due date for USDA's comments, and by setting September 3, 1997, as the due date for applicants' reply to USDA's comments. We noted that USDA had indicated that the 14-day extension it sought would benefit the oversight process by allowing USDA to receive, at a series of "shipper and community listening sessions in Kansas," input on the competitive effects of the UP/SP merger on agricultural shippers and communities.

By letter dated and filed July 22, 1997, six additional parties (AG Processing, Inc., The National Industrial Transportation League, Public Service Company of Colorado, Kansas City Southern Ry. Co., Southwest Grain Co., Inc., and Texas Mexican Ry. Co., hereinafter referred to collectively as "petitioners") have requested a similar 14-day extension of time for filing their comments. Petitioners indicate: that petitioners are participants "in an ongoing process of obtaining information from the railroads involved about the implementation of the merger and its conditions"; that this process apparently will not be completed in time to allow the information developed to be included in the comments, if such comments must be filed on August 1; and that "several" of the petitioners expect to be participants in the hearings referred to in the USDA request.[1]

[1] USDA noted in its own extension request that the first two listening sessions are scheduled for the week of July 27, 1997.

By letter dated and filed July 24, 1997, applicants[2] have advised that they view petitioners' extension request as completely unwarranted. Applicants state that only two of the petitioners have even visited applicants' document depository, and that applicants are unaware of any "ongoing process of obtaining information from the railroads" respecting merger implementation.

We will deny the extension request made by petitioners. Petitioners have been on notice since May 7, 1997, as to the timetable for filings. As applicants note, whereas USDA justified its extension request by reference to a specific need, petitioners have neither pointed to any specific reason why they need more time nor explained just what they hope to accomplish in the additional time. The fact that some petitioners may be participating in USDA's field hearings does not explain why these petitioners cannot submit their own comments by August 1.

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

It is ordered:

1. The extension request filed by petitioners is denied.

2. The procedural schedule established in Decision No. 1 remains in effect, except as indicated in Decision No. 5.

3. This decision is effective on the date of service.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

[2] At the present time, the term "applicants" refers to Union Pacific Corporation (UPC), Union Pacific Railroad Company (UPRR), Southern Pacific Rail Corporation (SPR), Southern Pacific Transportation Company (SPT), and St. Louis Southwestern Railway Company (SSW). The term "applicants" previously embraced, in addition to the foregoing, Missouri Pacific Railroad Company (which was merged into UPRR on January 1, 1997) and SPCSL Corp. and The Denver and Rio Grande Western Railroad Company (which were merged into UPRR on June 30, 1997).