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SERVICE DATE – JANUARY 8, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 29653 (Sub-No. 9)

PROVIDENCE AND WORCESTER RAILROAD COMPANY—POOLING OF CAR
SERVICE REGARDING MULTILEVEL CARS

Decided: January 4, 2007

By application filed on September 19, 2006, Providence and Worcester Railroad Company (P&W), a common carrier engaged in the transportation of property by railroad in Rhode Island, Massachusetts, Connecticut, and New York, seeks approval for its participation in the Multilevel Car Pooling Agreement (Agreement) for the pooling of services related to multilevel cars used to transport motor vehicles and boxcars used to transport automobile parts. Its participation in the Agreement will be with respect to the movement of multilevel railcars between an automobile staging facility located in Davisville, RI, and its connections with various railroads. The Agreement was originally approved by the Board's predecessor, the Interstate Commerce Commission (ICC), in The Baltimore and Ohio Railroad Company, et al.—Pooling of Car Service Regarding Multilevel Cars, Finance Docket No. 29653 (ICC served Aug. 19, 1981) (Multilevel Cars).¹

Notice of the filing of the application was served and published in the Federal Register on October 20, 2006, 71 FR 62042. No comments were filed to P&W's proposed membership in the Agreement.

Under 49 U.S.C. 11322, the Board may approve pooling agreements that are voluntarily entered into by carriers, provided that the pooling or division of traffic, services, or earnings will be in the interest of better service to the public or of economy of operation and will not

¹ The ICC approved amendments to the Agreement authorizing the pooling of railroad services in auto-parts boxcars in The Baltimore and Ohio Railroad Company, et al.—Pooling of Car Service Regarding Multi-Level Cars, Finance Docket No. 29653 (Sub-No. 3) (ICC served May 8, 1986). Other modifications included adding additional carriers to the pool, the most recent of which was the addition of Ferrocarril Mexicano, S.A. de C.V., in Ferrocarril Mexicano, S.A. de C.V.—Pooling of Car Service Regarding Multilevel Cars, STB Finance Docket No. 29653 (Sub-No. 8) (STB served Jan. 19, 2001). The most recent amendment to the terms of the Agreement enabled railroads and shippers to obtain and use information that they otherwise would not have, thereby allowing pool members to increase the efficiency of distribution of the multilevel car fleet and minimize unnecessary investment. See The Baltimore and Ohio Railroad Company, et al.—Pooling of Car Service Regarding Multilevel Cars, Finance Docket No. 29653 (Sub-No. 6) (ICC served June 30, 1995).

unreasonably restrain competition. The ICC found that the Agreement is in the interest of better service to the public and economy of operations, and does not unreasonably restrain competition. See Multilevel Cars, slip op. at 3. The operational efficiencies and economic benefits that will accrue from P&W's participation in the pool are in the public interest and should increase rather than reduce competition. Accordingly, P&W's application will be granted.

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

It is ordered:

1. P&W is authorized to participate in the pooling of multilevel rail car service under the Multilevel Car Pooling Agreement.
2. This authorization is subject to the continuing right of any interested person to petition for reopening and reconsideration on the ground that the pooling operation has not resulted in better service to the public or achieved economies of operation or that it has unreasonably restrained competition.
3. The Board reserves the right to modify this decision by the imposition of additional or different terms or to revoke approval, if that action is shown to be proper.
4. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary