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SERVICE DATE – FEBRUARY 4, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 705

COMPETITION IN THE RAILROAD INDUSTRY

Decided: February 4, 2011

By notice served on January 11, 2011 (January notice), the Board announced its intent to hold a public hearing on May 3, 2011, to explore the current state of competition in the railroad industry and possible policy alternatives to facilitate more competition, where appropriate. In the January notice, the Board sought written comments prior to the hearing addressing the legal, factual, and policy matters associated with competition issues presented by the Board. The January notice stated that initial comments are due on February 18, 2011, and reply comments 28 days thereafter, on March 18, 2011. The January notice further instructed interested persons to submit a notice of intent to participate, along with written testimony, by April 4, 2011. The January notice also required written submissions by interested persons who do not wish to appear at the hearing to be submitted by April 4, 2011.

On January 25, 2011, the Association of American Railroads (AAR) filed a motion to extend the procedural schedule. AAR requests that the initial comment period be extended 60 days, to April 19, 2011, that the reply comments be due 45 days thereafter, on June 3, 2011, and that the dates for the notice of intent to participate and the public hearing be rescheduled accordingly. AAR argues that the breadth and complexity of the hearing require longer comment periods, and it further notes that many of its resources in the near term will be dedicated to the Board's February 24, 2011 public hearing in another Board proceeding, Review of Commodity, Boxcar, and TOFC/COFC Exemptions, Docket No. EP 704.

On January 26, 2011, the American Short Line and Regional Railroad Association (ASLRRRA) also filed a motion to extend procedural schedule. ASLRRRA cites concerns similar to those expressed by AAR, and further states that its large and diverse membership requires additional time to compile and distill the views of its constituency. As a result, ASLRRRA requests a longer extension of deadlines, requesting that initial comments be due May 18, 2011, and reply comments be due July 18, 2011, with corresponding extensions of the dates for written testimony and the public hearing.

On January 28, 2011, the Concerned Captive Coal Shippers group (CCCS) filed a letter stating that it will participate in the proceeding. CCCS also states that it supports the schedule requested by AAR but opposes the schedule proposed by ASLRRRA.

On January 31, 2011, the American Chemistry Council, American Forest and Paper Association, Chlorine Institute, The Fertilizer Institute, National Grain and Feed Association, and National Industrial Transportation League (Interested Parties) filed a reply to the motions of AAR and ASLRRA. Interested Parties state that they object to ASLRRA's motion, but do not oppose AAR's motion.

On February 3, 2011, Consumers United for Rail Equity (CURE) filed a letter opposing any extension of time for filing comments in this proceeding. CURE further states that if the Board grants an extension, the extension should be limited to 30 days.

In the interest of accommodating the parties' requests for more time to address the important issues presented by the January notice, while also avoiding unnecessary delay, the Board will grant an extension of time for the submission of initial comments until April 12, 2011. Reply filings will be due on May 27, 2011. In light of the extension of the comment periods, the public hearing scheduled for May 3, 2011, will be postponed until June 22, 2011, at 9:30 a.m., in the hearing room of the Board's headquarters located at 395 E Street, S.W., Washington, DC. If necessary, the Board will extend the hearing for a second day on June 23, 2011. Any party wishing to speak at the hearing shall file with the Board a notice of intent to participate (identifying the party, the proposed speaker, and the time requested) no later than June 10, 2011. With the notice of intent, the party shall provide written testimony on the issues it will address at the hearing. Written submissions by interested persons who do not wish to appear at the hearing are also due by June 10, 2011.

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

It is ordered:

1. The request for an extension of the procedural schedule, as modified, is granted.
2. The public hearing scheduled for May 3, 2011, is rescheduled for June 22, 2011.
3. Initial comments are due on April 12, 2011.
4. Reply comments are due on May 27, 2011.
5. By June 10, 2011, parties wishing to speak at the hearing shall file with the Board a notice of intent to participate identifying the party, the proposed speaker, and the time requested. With the notice of intent, the party shall provide written testimony on the issues it will address at the hearing. Written submissions by interested persons who do not wish to appear at the hearing are also due by June 10, 2011.
6. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.