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SEC

SERVICE DATE - JULY 8, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 32760 (Sub-No. 34)

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

(Arbitration Review)

Decided: July 7, 1999

By petition filed on June 23, 1999, under 49 CFR 1115.8, Mr. E.E. Schoppa, acting on behalf of himself and other similarly situated employees, requests a 30-day extension, to July 23, 1999, of the deadline for filing an appeal of the decision of Arbitrator R.J. Carvatta.

On July 2, 1999, the United Transportation Union (UTU) and the Union Pacific Railroad Company (UP) filed replies in opposition to the requested extension.

The requested extension will be denied. The arbitrator issued his award on November 17, 1998. On February 1, 1999, the arbitrator issued a decision clarifying the award. Under the assumption that the 20-day deadline began to run on February 1, 1999, rather than November 17, 1998, the appeal was due by February 22, 1999. Thus, petitioners are at least 4 months late in filing an appeal.

Petitioners have not explained their lengthy delay. Petitioners allege that they did not become aware of the effect of the award on them until June 4, 1999. However, in a letter dated May 27, 1999, petitioners' attorney stated that they became aware of the modified award on May 4, 1999.¹ Moreover, petitioners should have been aware of the clarified award even before May 4, 1999, because it was distributed to the "Local Chairpersons in the Houston Hub" on February 10, 1999, and April 16, 1999.² In addition, the dispute was discussed on the web home page of the

¹ Specifically, the letter stated, ". . . [o]ur clients are concerned about the Carvatta award, as modified on February 1, 1999, but not given by the Union to our clients until May 4, 1999." See Exhibit 1 of UTU's reply filed on July 2, 1999.

² Statement of A. Terry Olin, attached to UP's reply filed on July 2, 1999; statement of David L. Hakey, attached to UTU's reply filed on July 2, 1999.

General Committee of UTU's Houston Hub.³

Under these circumstances, petitioners had adequate time to prepare an appeal and have not justified their failure to do so.

It is ordered:

1. The petition for an extension is denied.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

³ Id.