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SEC

SERVICE DATE - JANUARY 5, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33820

CENTRAL OF TENNESSEE RAILWAY & NAVIGATION COMPANY  
INCORPORATED DBA THE LONGHORN RAILWAY COMPANY—  
PETITION FOR DECLARATORY ORDER

Decided: January 4, 2000

Central of Tennessee Railway & Navigation Company Incorporated doing business as The Longhorn Railway Company (LHRR), the operator of a 162-mile rail line between Giddings and Llano, TX,<sup>1</sup> filed a petition for a declaratory order on November 12, 1999, alleging that Capital Metropolitan Transportation Authority (CMTA), owner of the Giddings-Llano line,<sup>2</sup> is engaged in a pattern of behavior that is inconsistent with the latter's common carrier obligation, and that this pattern of behavior is impeding LHRR's ability to carry out its own common carrier obligation as operator of, and forcing it discontinue freight service to, the Giddings-Llano line. On December 17, 1999, CMTA replied, filing a motion to dismiss based on jurisdictional and ripeness issues. Additionally, CMTA petitioned, in the alternative, for a stay of the proceeding until the completion

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<sup>1</sup> Central of Tennessee Railway & Navigation Company Incorporated d/b/a The Longhorn Railway Company—Change of Operator Exemption—The City of Austin, TX, STB Finance Docket No. 32885 (Sub-No. 1) (STB served Aug. 18, 1996) [Austin Railroad Company doing business as Austin & Northwestern Railroad (AUNR) was the former operator of the Giddings-Llano line, see Austin Railroad Company—Operation Exemption—City of Austin, TX, Finance Docket No. 30861-B (ICC served Nov. 4, 1986)] (Austin Railroad).

<sup>2</sup> Ownership of the Giddings-Llano line apparently was transferred from the city of Austin, TX (Austin), to CMTA on May 20, 1998. Austin had acquired the Giddings-Llano line from Southern Pacific Transportation Company, City of Austin, TX—Acquisition—Southern Pacific Transportation Company, Finance Docket No. 30861(A) (ICC served and published at 51 FR 40085 on Nov. 4, 1986), had entered into a 10-year contract for AUNR to operate the Giddings-Llano line, Austin Railroad, supra, and was granted an exemption from regulation in City of Austin, TX—Exemption—From 49 U.S.C. Subtitle IV, Finance Docket No. 30861(A) (Sub-No. 1) (ICC served and published at 51 FR 40085 on Apr. 23, 1987).

of mandatory, non-binding mediation scheduled for late January or early February 2000,<sup>3</sup> or, if mediation fails, until a decision is issued by the Texas state courts in response to the lawsuit LHRR allegedly threatened to file.<sup>4</sup> On December 27, 1999, LHRR filed a request for a 15-day extension to reply. LHRR states that the extension is necessary because of the length and complexity of CMTA's motion and the holiday season; it states that CMTA has consented to the extension request.

As with the extension granted to CMTA, the grant of an extension for LHRR to reply to CMTA's motion to dismiss, under 49 CFR 1104.13, is unopposed, will not unduly delay, and should ultimately improve the record for making, a determination on whether to institute this declaratory order proceeding.

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

It is ordered:

1. The due date for LHRR's reply is extended to January 21, 2000.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary

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<sup>3</sup> CMTA states that its contract with LHRR requires mediation before a lawsuit may be filed. LHRR filed a mediation petition with the Texas state courts on November 17, 1999. A copy of the mediation petition was submitted in Exhibit C of CMTA's motion to dismiss.

<sup>4</sup> CMTA states that LHRR has given it a draft of the state court lawsuit.