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SERVICE DATE - LATE RELEASE APRIL 22, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33726

WESTERN COAL TRAFFIC LEAGUE
v.
UNION PACIFIC RAILROAD COMPANY

Decided: April 22, 1999

On April 15, 1999, the Secretary issued an order establishing a procedural schedule for considering the complaint filed by Western Coal Traffic League (WCTL) against defendant Union Pacific Railroad Company (UP).¹ In its complaint, WCTL seeks an order directing UP in its Annual Report (Form R-1) for 1997 to identify as "special charges" certain expenses it incurred in connection with its merger with the Southern Pacific Transportation Company (SP) and in connection with the service problems it experienced during 1997 and 1998.

On April 16, 1999, UP filed a motion to dismiss the complaint, along with a request to suspend the procedural schedule. In support of the motion, UP argues that WCTL lacks standing to bring the complaint. UP also asserts that WCTL's complaint, in effect, seeks to change the governing accounting rules, and that the relief it seeks should therefore be the subject of a rulemaking proceeding, not a complaint. Finally, UP claims that, in any event, its Form R-1 was consistent with our Uniform System of Accounts (USOA) and generally accepted accounting principles (GAAP).

UP's motion to dismiss will be denied. UP's argument that its accounting practices comply with USOA and GAAP is not a basis for dismissal, but rather is the issue that must be decided after the record is developed. WCTL's members, which ship and receive substantial volumes of coal over UP, have a sufficient interest in whether UP's Form R-1 complies with our accounting rules to give them standing to litigate the issue. Finally, we do not agree that WCTL ought to be required to seek rulemaking. Rather, its complaint, as we see it, raises a narrow accounting issue: whether UP's 1997 Form R-1 complies with USOA and GAAP. We can and indeed should decide that issue in response to a complaint such as the one filed by WCTL.

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

It is ordered:

1. The motion to dismiss is denied, and the request to suspend the procedural schedule is moot.

¹ That schedule is as follows: WCTL's opening statement is due May 5, 1999; UP's reply is due May 25, 1999; and WCTL's rebuttal is due June 9, 1999.

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

By the Board, Chairman Morgan, Vice Chairman Clyburn and Commissioner Burkes.

Vernon A. Williams
Secretary