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SEC

SERVICE DATE - OCTOBER 15, 1998

SURFACE TRANSPORTATION BOARD

DECISION

Finance Docket No. 32158 (Sub-No. 2)

GATEWAY WESTERN RAILWAY COMPANY
—CROSSING COMPENSATION—
TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

Decided: October 14, 1998

This proceeding was instituted by decision served June 22, 1995, in response to a petition filed June 6, 1995, by Terminal Railroad Association of St. Louis (TRRA) seeking an expedited prescription of crossing compensation and other terms under 49 U.S.C. 10901(d)(2). The petition is an outgrowth of a decision authorizing Gateway Western Railway Company (GWRR) to cross a rail line belonging to TRRA in connection with the construction of a track (the Q Connection line). Gateway Western Railway Company—Petition Under 49 U.S.C. 10901(d), Finance Docket No. 32158 (Sub-No. 1) (ICC served Nov. 28, 1994).¹ GWRR replied and simultaneously moved that the proceeding be held in abeyance pending a decision in the related contract and property rights dispute in Gateway Western Railway Company v. Terminal Railroad Association of St. Louis, No. 95-CV-429-PER (S.D. Ill. filed May 23, 1995).²

In a decision served October 20, 1997, the parties were directed to: (a) report to the Board on the status of the court proceeding mentioned above (or any other pertinent court proceeding); (b) report to the Board on the status of any negotiations between the parties; and (c) state whether there is a need for a Board decision on the merits. TRRA, in a letter filed November 14, 1997, stated that the court proceeding was still pending and that negotiations between the parties had broken off. TRRA requested that the Board enter a procedural schedule on the merits. GWRR filed a status report on November 19, 1997, requesting abeyance until completion of the court proceeding.

On March 25, 1998, TRRA notified the Board that the court proceeding had been concluded and that negotiations had resumed. In a letter filed on May 1, 1998, TRRA stated that the parties

¹ GWRR is now controlled by Kansas City Southern Industries, Inc. (KCSI), a noncarrier holding company. See Kansas City Southern Industries, Inc., KCS Transportation Company, and The Kansas City Southern Railway Company—Control—Gateway Western Railway Company and Gateway Eastern Railway Company, STB Finance Docket No. 33311 (STB served May 1 and Aug. 13, 1997). KCSI is the parent of Kansas City Southern Railway, a Class I carrier.

² When TRRA's petition was filed, a Temporary Restraining Order (TRO) was in effect. On June 12, 1995, the district court converted the TRO to a preliminary injunction, enjoining and restraining TRRA from refusing to allow GWRR to use its Q Connection line.

had reached an agreement in principle and were negotiating an implementing settlement agreement. Finally, on October 5, 1998, TRRA filed a motion to dismiss its petition and discontinue the proceeding. The motion is reasonable and will be granted.

It is ordered:

1. TRRA's motion to dismiss is granted. The petition filed June 6, 1995, is dismissed and the proceeding is discontinued.

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

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary