

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33134

NORTH CAROLINA RAILROAD COMPANY—PETITION TO SET TRACKAGE  
COMPENSATION AND OTHER TERMS AND CONDITIONS—NORFOLK SOUTHERN  
RAILWAY COMPANY, NORFOLK & WESTERN RAILWAY COMPANY, AND ATLANTIC  
AND EAST CAROLINA RAILWAY COMPANY

Decided: July 7, 1997

By petition filed July 3, 1997, North Carolina Railroad Company (NCR) requests a further extension of time to file a petition to reopen the Board's decision served May 29, 1997.<sup>1</sup> NCR notes that it is currently negotiating with Norfolk Southern Railway Company, Norfolk & Western Railway Company, and Atlantic and East Carolina Railway Company (collectively, NS) over the terms of an interim rental agreement and that legislation to fund a proposed acquisition of NCR by the State of North Carolina is pending. Its decision whether or not to seek reopening will be made upon completion of the acquisition negotiations. Accordingly, it asks that the deadline be delayed until 90 days after either the consummation of the acquisition or the failure of acquisition negotiations. Petitions to reopen are currently due on July 8, 1997.

In a letter received by facsimile (FAX) on July 3, 1997, NS states that it has reached an agreement with NCR regarding implementation of the provisions of the May 29 decision and that in light of the agreement, it consents to the extension request.<sup>2</sup>

NCR's motion will be granted.<sup>3</sup>

*It is ordered:*

1. The due date for filing petitions to reopen the Board's decision, served May 29, 1997, is extended to a date 90 days after consummation of the State of North Carolina's acquisition of NCR or the failure of acquisition negotiations. NCR will promptly notify the Board of either eventuality in its monthly progress reports.

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

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<sup>1</sup> In that decision, the Board: (1) prescribed interim compensation for the exclusive use of NCR's 317-mile rail line between Charlotte and Morehead City, NC, by operating subsidiaries of Norfolk Southern Corporation (collectively, NS); and (2) held the proceeding in abeyance pending various negotiations. In a decision served June 17, 1997, NCR was granted a 20-day extension of the June 18, 1997 due date for filing a petition to reopen the May 29 decision.

<sup>2</sup> On June 30, 1997, intervener Walker F. Rucker (representing himself and others) filed a pleading styled "Motion by the Walker F. Rucker Intervenors to reopen the Surface Transportation Board decision served May 29, 1997." In essence, however, the pleading is in support of a purported NCR petition to reopen which may or may not be filed. As such, the Rucker motion will be considered when and if NCR files its petition.

<sup>3</sup> Ordinarily, extensions are granted in 20-day increments. 49 CFR 1115.3(e). This lengthy extension is not opposed and will potentially lead to a just, speedy and inexpensive determination of the issues. 49 CFR 1100.3. The due date will ultimately be fixed by virtue of the parties' progress reports dictated by the Board's May 29 decision. In any event, NCR would be free to seek reopening at any time under 49 CFR 1115.4.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary