

FINANCE-30400

(SUB NO. 16)

3392

SERVICE DATE

AUG 20 1984

EC  
FR-7035-01

INTERSTATE COMMERCE COMMISSION

DECISION NO. 14

FINANCE DOCKET NO. 30400 (SUB-NO. 16)

UNION PACIFIC RAILROAD COMPANY AND MISSOURI PACIFIC RAILROAD  
COMPANY - TRackage RIGHTS OVER SOUTHERN PACIFIC AND SANTA FE  
RAILWAY COMPANY

AGENCY: Interstate Commerce Commission

ACTION: Application accepted for consideration

SUMMARY: The Commission is accepting for consideration the application of the Union Pacific Railroad Company (UP) and Missouri Pacific Railroad Company (MP) for trackage rights over certain lines of the Southern Pacific and Santa Fe Railway Company (SPSF) [presently, the Southern Pacific Transportation Company (SPT) and the Atchison, Topeka and Santa Fe Railway Company (ATSF)] in California, Arizona, and Texas. This application is filed as a proposed condition to the proposed merger between the SPT and ATSF. A schedule has been set for consideration of this application.

DATES: Written comments must be filed with the Interstate Commerce Commission by October 1, 1984. Oral hearing in this consolidated proceeding will begin October 1, 1984.

FOR FURTHER INFORMATION CONTACT:

Ellen A. Goldstein  
(202) 275-7969

ADDRESSES: An original and 10 copies of all comments referring to Finance Docket No. 30400 (Sub-No. 16) should be filed with:

Office of the Secretary  
Interstate Commerce Commission  
Washington, DC 20423

One copy of all comments should also be filed with:

Rail Section  
Room 5417  
Interstate Commerce Commission  
Washington, DC 20423

SUPPLEMENTARY INFORMATION:

UP/MP currently operate over 22,000 miles of track in the States of AR, CA, CO, ID, IL, IA, KS, MO, MT, MS, NB, NV, NM, OR, OK, TN, TX, WA, and WY.

On July 19, 1984, UP/MP filed this responsive application as proposed conditions to the applications in Finance Docket No. 30400 and embraced cases, where the Santa Fe Southern Pacific Corporation (SFSP) is seeking authority to control SPT, and to merge ATSF and SPT to form SPSF, and for related transactions.

Notice of those applications was published in the Federal Register on April 20, 1984, at 49 Fed. Reg. 16881. The trackage rights sought by UP/MP in Finance Docket No. 30400 (Sub-No. 16) involve a portion of the SPT and ATSF lines sought to be controlled and merged by SFSP.

By statute and regulation, responsive applications were due to be filed July 19, 1984 [(49 U.S.C. 11345 (b)(2); 49 C.F.R. 1180.4 (d)(4)]. We granted UP/MP an extension of time to complete its application by September 10, 1984 (decision served July 23, 1984). Supporting financial information, labor, environmental and energy data, market impact analysis, operating plan, and supporting verified statements must be filed by that date.

A summary of the application follows:

1. The SPT line between El Paso, TX (SPT Mile Post 827.2), and Colton, CA (SPT Mile Post 538.7), and from Picacho, AZ (SPT Mile Post 936.7), to and including a point about twelve miles west of Phoenix, AZ (SPT Mile Post 894.2);
2. The ATSF line between Barstow, CA (ATSF Mile Post 746.4), and Mojave, CA (ATSF Mile Post 814.7);
3. The SPT line between Mojave, CA (SPT Mile Post 381.3), and Bakersfield, CA (SPT Mile Post 312.9);
4. The SPT line between Colton, CA (SPT Mile Post 538.7) and Mojave, CA (SPT Mile Post 381.3) via Highland and Palmdale, CA;
5. The ATSF line between Kern Junction, CA (ATSF Mile Post 885.2), and Oil Junction, CA (ATSF Mile Post 110.7), via Landco, CA;
6. The SPT line between Bakersfield, CA (SPT Mile Post 312.9), and the SPT-WPRR crossing near Lathrop, CA (SPT Mile Post 93.7), via Oil Junction, Fresno, and Modesto, CA;
7. The SPT/ATSF line between Oil Junction, CA (ATSF Mile Post 308.6), and Maltha, CA (ATSF Mile Post 311.6);
8. The ATSF line between Escalon, CA (ATSF Mile Post 1101.8), and Riverbank, CA (ATSF Mile Post 1095.6), and the ATSF Oakdale Spur;
9. The SPT line between Sacramento (Haggin), CA (SPT Mile Post 90.4), and Oakland, CA (SPT Mile Post 8.0 on the Oakland-Santa Clara line), via Martinez and Richmond, CA; and
10. The SPT and ATSF lines between Martinez, CA (SPT Mile Post 34.7 and ATSF Mile Post 1166.9), and Antioch, CA (SPT Mile Post 53.5 and ATSF Mile Post 1152.1).

UP/MP also request, in connection with all of the above-described bridge trackage rights except those described in numbers 4 and 5 above, the rights to:

1. Serve points or segments of the lines that, as of October 4, 1983, were common to or operated by both ATSF and SPT, including without limitation, reciprocal switching zones;
2. Construct, own, and operate intermodal facilities, including but not limited to auto ramps, team tracks, TOFC/COFC ramps and facilities, and bulk transfer facilities;
3. Site and/or serve new facilities and industries on the lines or connecting to the lines by means of spur or industrial lead tracks;
4. Interchange traffic and equipment with railroads and other carriers at all existing or new physical connections and facilities located anywhere on the lines; and
5. Participate, at UP/MP's option, in joint facility, reciprocal switching and similar arrangements for joint service within the switching districts or municipalities served by means of the lines, to which both ATSF and SPT were parties as of October 4, 1983, on fair and equitable terms and conditions.

The application substantially complies with the applicable regulations, waivers, and extensions granted. The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained from applicant's representatives upon request. Interested persons should request copies of exhibits due September 10th, from applicants representatives, so their comments may reflect the later filed information.

The application is consolidated for disposition with the applications in Finance Docket No. 30400, et al. Those applications are the subject of oral hearings conducted by Administrative Law Judge James E. Hopkins commencing October 1, 1984. By statute, the evidentiary phase of these proceedings must end by April 20, 1986. Service of an initial decision will be waived, and determination of the merits of the applications will be made in the first instance by the entire Commission. 49 U.S.C. 11345.

Participation in the Proceedings: Comments. Interested persons may participate formally by submitting written comments regarding the application. Comments should indicate the exact proceeding designation, and an original and 10 copies should be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, DC, 20423, no later than October 1, 1984. One copy should also be sent to the Rail Section, Room

5417, Interstate Commerce Commission, Washington, DC 20423. Comments shall include the following: the person's position in support of or in protest to the proposed transaction, and specific reasons why approval would or would not be in the public interest. See 49 C.F.R. 1180.4(d)(1). Interested persons who do not intend to participate formally in the proceeding but who desire to comment may file statements, subject to the filing and service requirements specified below. Persons must state specifically whether they intend to actively participate in the oral hearings on the application or whether they wish only to be advised of all decisions issued by the Commission. Failure to state an intention to participate as an active party will result in the person being placed in the latter category.

Written comments shall be concurrently served by first-class mail on the Secretary of the Department of Transportation, on the Attorney General of the United States, and on

(1) Applicant's representatives:  
Charles A. Miller  
Covington & Burling  
1201 Pennsylvania Ave., N.W.  
P.O. Box 7566  
Washington, DC 20044

and

James V. Dolan  
Union Pacific Railroad Company  
Missouri Pacific Railroad Company  
1416 Dodge St.  
Omaha, NE 68179

and (2) representatives of primary applicants SPT and ATSF:

R. K. Knowlton  
Vice President-Law  
Santa Fe Southern Pacific Corp.  
224 S. Michigan Ave.  
Chicago, IL 60604

Milton E. Nelson, Jr.  
General Counsel  
The Atchison, Topeka and  
Santa Fe Railway Co.  
224 S. Michigan Ave.  
Chicago, IL 60604

and

Douglas S. Stephenson  
General Attorney  
Southern Pacific  
Transportation Co.  
One Market Plaza  
San Francisco, CA 94105

Within 10 days of the filing of written comments with the Commission, comments must also be served, by first class mail, on all persons designated active parties of record on the Commission's revised service list, to be issued shortly by the Commission.

Responsive Applications. Because this application contains proposed conditions to approval of the applications in Finance Docket No. 30400, et al., the Commission will entertain no requests for affirmative relief to these proposals. Parties may only participate in direct support of or direct opposition to UP/MP's application as filed.

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

It is ordered:

1. The application in Finance Docket No. 30400 (Sub-No. 16) is accepted for consideration, subject to the condition that it is completed by September 10, 1984.
2. The parties shall comply with all provisions as stated above.
3. The decision is effective on the date served.

Decided: August 15, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

(SEAL)

Kathleen M. King  
Acting Secretary