

FD-30400

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LATE RELEASE

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INTERSTATE COMMERCE COMMISSION

DECISION NO. 31

Finance Docket No. 30400<sup>1/</sup>

SANTA FE SOUTHERN PACIFIC CORPORATION -- CONTROL -- SOUTHERN PACIFIC TRANSPORTATION COMPANY

Decided: June 30, 1987

By decision served October 10, 1986, the Commission denied the application for proposed consolidation of the Santa Fe Southern Pacific Corporation (SFSP), parent of The Atchison, Topeka and Santa Fe Railway Company (ATSF), and the Southern Pacific Transportation Company (SPT). SPT has been held in a voting trust,<sup>2/</sup> since SPT's former parent, Southern Pacific Company and Santa Fe Industries merged on December 23, 1983, to form SFSP. Applicants asked us to reopen the proceeding because of changed circumstances resulting in new evidence. In an open conference held today, the Commission decided to deny the petition to reopen.

In an open conference held on July 24, 1986, the Commission voted to deny the merger. It also voted to require applicants to submit a plan of divestiture. On September 6, 1986, subsequent to the conference but prior to the issuance of the written decision, applicants requested that we: (1) reopen the proceeding for the purpose of considering new evidence and; (2) defer issuance of a written decision implementing the vote at the July 24 conference until the new evidence had been received and considered. In Decision No. 26, (not printed), served October 9, 1986, the Commission denied the petition to the extent it requested a deferral of the issuance of a decision. However, it held in abeyance the request to reopen. The Commission also suspended the requirement that applicants submit a divestiture plan until a final ruling was made on the petition to reopen.

In the subsequent October 10 decision denying the application, the Commission ruled that SPSP would have to divest either SPT or ATSF, required that a divestiture plan be submitted within 90 days (which was stayed by Decision No. 26, supra), and reserved jurisdiction for that purpose. Reporting requirements were imposed to assure orderly divestiture.

Because of the vote taken today, we have concluded that the stay issued in Decision No. 26 of the divestiture order in the October 10 decision should be lifted effective immediately. Applicants will have 90 days to submit their divestiture plan. Applicants and other interested parties should consult the October 10 decision (Slip Op. at pp. 106-108) for guidance. The Commission will issue a written decision shortly setting forth the Commission's reasons for denying reopening.

<sup>1/</sup> Embraces also the subnumbered proceedings indicated at \_\_\_ I.C.C.2d \_\_\_ (served October 10, 1986).

<sup>2/</sup> Subject to certain conditions, the Commission approved the terms of the voting trust agreement in a decision in this proceeding (not printed), served December 23, 1983. Questions of compliance with the terms of the trust were reviewed in a decision in this proceeding (not printed), served February 27, 1987.

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

It is ordered:

1. Applicants are immediately to pursue the orderly divestiture of SPT or ATSF from SFSP.

2. Applicants shall file, within 90 days from the service date of this decision, a plan of divestiture. The plan shall include: the proposed approach to divestiture; a description of all assets to be divested; and if SPT is to be divested a report on the financial and operating condition of the SPT, including details of any proposed transfer of assets from SPT and its subsidiaries to other entities owned directly or indirectly by SFSP and of any such transfers which may have taken place since December 23, 1983. They shall also furnish us with all such reports as they may file with the Securities and Exchange Commission.

3. After the filing of the initial plan as described above, applicants shall file quarterly reports on the progress of divestiture.

4. Interested parties may file comments to the initial plan and quarterly reports within 20 days from the date of filing of the plan and subsequent reports with the Commission.

5. SFSP shall be considered a carrier subject to the provisions of Subchapter III, of Chapter 111, of Title 49 of the United States Code until such time as one or the other is divested.

6. Jurisdiction is retained to make such further order or orders as may be necessary or appropriate.

7. This order shall be effective on the date of service.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons.

Noreta R. McGee  
Secretary

(SEAL)