

FINANCE NO-30400

DEC 21 1984

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INTERSTATE COMMERCE COMMISSION
Washington, DC

Finance Docket No. 30400*

SANTA FE SOUTHERN PACIFIC CORPORATION
CONTROL-SOUTHERN PACIFIC TRANSPORTATION COMPANY

Decided: December 18, 1984

3392

By a motion filed December 13, 1984, applicants Santa Fe Southern Pacific Corporation, Southern Pacific Transportation Company, and the Atchison Topeka and Santa Fe Railway Company, move for an order striking from the record in this proceeding, the "Responsive Statement to Applicants' Diversion Study," filed on December 7, 1984, by Texas Mexican Railway Company. Applicants contend that the responsive statement was in fact not a responsive diversion study, but was a separate independent diversion study which should have been filed prior to November 21, 1984, under the requirements of this ALJ's order dated November 8, 1984. The Judge's order of November 8, 1984 stated as follows:

(5) The non-government parties opposition testimony in the merger proceeding, except for such testimony as it concerns applicants rail diversion study, will now be due on November 21, 1984.

Non-government parties opposition testimony concerning applicants rail diversion study will now be due on December 10, 1984.

The applicants consider the Texas Mexican submission to be nothing more than a subterfuge, which achieves by "self help" an extension of time for opposition evidence that the Judge expressly declined to grant. The applicants further claim that the study, filed a short period before the commencement of the next phase of hearing in this case, will require applicants to spend a considerable period of time and effort in analyzing the diversion study and supporting materials. This it is said would disrupt applicants preparations for the next phase of hearing.

*Embraces F.D. Nos. 30400 (Sub-No. 1-20) and MC-F-15628.

