

STB

FD

32760

(Sub 31)

10-28-98

J



THE TEXAS MEXICAN RAILWAY COMPANY

4000 Gulf Freeway, Suite 250
HOUSTON, TX 77023

PATRICK L. WATTS
VICE PRESIDENT-TRANSPORTATION

Tel: 713-924-8352
Fax: 713-924-8374



October 28, 1998

Mr. Kenneth B. Cotton
Chief Operating Officer
Houston and Gulf Coast Railroad
3203 Areba
Houston, Texas 77091

Dear Mr. Cotton:

In reviewing H&GC's rebuttal filing to the Surface Transportation Board (STB Finance Docket No. 32760 (Sub No. 31)), I noticed that you spoke of a meeting between us on February 16, 1998 where you stated, "Pat Watts never showed up for the meeting, and it was never rescheduled." That is not correct.

You and I did have a meeting in my office (501 Crawford Street) at 9:00 AM on February 16, 1998. My notes from that meeting reveal that we discussed, amongst other things, H&GC's current and potential capacity to store up to 2,000 rail cars at New Gulf; your pending negotiations with the BNSF to purchase or lease trackage near Bay City in which you inquired if Tex Mex would be interested in financing that venture; the amount of financing you requested; and, we discussed rail service to Formosa Plastic's pipe facility located in Wharton, Texas. Our meeting lasted approximately forty-five minutes.

My notes also reveal that we met and talked briefly at the Houston Traffic Club luncheon in Houston on March 3, 1998. These aforementioned meetings were in addition to numerous telephone conversations that you and I held between January and April 1998. Your portrayal that Tex Mex has been unwilling to meet and discuss opportunities with you is inaccurate.

Finally, as we said in our September 18, 1998 comments regarding the H&GC application (TM-18/KCS-10), we look forward to continuing to work with you to examine opportunities of mutual commercial benefit that may arise if the Consensus Plan is adopted.

Sincerely,

Pat Watts

cc: Honorable Vernon A. Williams

STB FD 32760 (Sub 31) 11-20-98 J MOCH



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

November 20, 1998

The Honorable Gene Green
United States House of Representatives
Washington, DC 20515-4329

FD-32760 Sub 31

Re: Union Pacific Texas/Gulf Coast Oversight Proceeding

Dear Congressman Green:

Thank you for your letter regarding the rail situation in the Houston/Gulf Coast area. In your letter, you note that service in the area has improved, but you state that further improvements are still needed. You also express the view that future service problems can be prevented only if the infrastructure in the Houston area is upgraded. You ask the Board to keep these considerations in mind as it considers the various suggestions for changes to the way in which rail service is provided in the area.

At this time I cannot address in any detail the issues that you have raised, because, as you know, the Board is conducting formal proceedings, in the context of its oversight of the UP/SP merger, to consider the matters. The Board has in the past, however, stated that it shares your view that upgraded infrastructure is vital for the Houston area. I assure you that as it considers proposals for changes affecting the UP service area, and for regulatory changes applicable to the industry in general, the Board will remain cognizant of the need for vigorous competition along with strong competitors in the West and throughout the Nation, and it will remain committed to issuing decisions that are in the interest of railroads, shippers, and the Nation as a whole.

I am having your letter and this response placed in the formal docket in the UP/SP Houston/Gulf Coast oversight proceeding. If I can be of assistance to you in this or any other matter, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan

Linda J. Morgan

GENE GREEN

29TH DISTRICT, TEXAS

COMMITTEE ON COMMERCE

• SUBCOMMITTEE ON
TELECOMMUNICATIONS, TRADE AND
CONSUMER PROTECTION

• SUBCOMMITTEE ON HEALTH AND
ENVIRONMENT

2429 RAYBURN
WASHINGTON, DC 20515
(202) 225-1688

256 N. SAM HOUSTON PKWY. EAST
SUITE 29
HOUSTON, TEXAS 77060
(281) 999-5879

11811 I-10 EAST
SUITE 430
HOUSTON, TEXAS 77029
(713) 330-0761

Congress of the United States
House of Representatives
Washington, DC 20515-4329

November 2, 1998

Ms. Linda Morgan
Chairman
Surface Transportation Board
Office of the Secretary
12th Constitution Ave. NW
Washington, D.C. 20423

Dear Ms. Morgan:

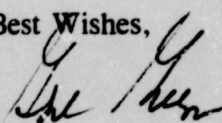
There is no doubt that the success of the petrochemical industry in Houston, one of the strongest in the world, relies on the strength of the railroad industry. After the merger of Union Pacific and Southern Pacific Railroads, the quality of rail service in Texas and the Gulf Coast deteriorated rapidly. The severe rail crisis that ensued had disastrous effects on the petrochemical industry and the Port of Houston, which lie within my Congressional District.

Both the length and severity of the rail crisis exacerbated its impact on the Houston Ship Channel's industries. As the Member of Congress representing this area, I remain concerned with the long-term reliability of service the plastic and chemical shippers receive. Substantial progress in correcting the rail problems has been made and the overall system has sufficiently rebounded from the earlier depths of the crisis. Yet, further improvements still need to occur.

I have closely monitored this situation for its duration and believe that long term solutions, including the construction of more infrastructure, should be implemented to prevent similar situations in the future. There is a critical need for the railroad industry to improve and expand the rail infrastructure in Houston and the Gulf Coast. In addition to making significant capital investments in Texas, the railroads serving Houston should upgrade the service they offer to the petrochemical industry and all customers along the Gulf Coast corridor.

Throughout this rail crisis, I have repeatedly communicated my concerns to the Surface Transportation Board. It is imperative that Houston and Texas have a rail system strong enough to withstand a similar meltdown in the future. I urge you to take these recommendations into consideration in the Board's pending decision in the Houston/Gulf Coast Oversight hearing.

Best Wishes,


Gene Green
Member of Congress

GG:krt

STB

FD

32760

(Sub 31)

11-20-98

J

MOCSS



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

November 20, 1998

The Honorable Pat Roberts
United States Senate
Washington, DC 20510-1605

FD-32760 Sub 31

Re: Union Pacific Houston/Gulf Coast Oversight Proceeding

Dear Senator Roberts:

Thank you for your letter regarding the requests of a variety of interests to obtain additional access to customers served by the Union Pacific Railroad (UP) in the Houston/Gulf Coast area. In your letter, you note that there have been service problems in the recent past in the Houston area, and you suggest that the "Consensus Plan," under which UP's lines would be opened up to other railroads, would restore the competitive alignment that existed before the Union Pacific/Southern Pacific merger.

At this time I cannot address in any detail the issues that you have raised, because, as you know, the Board is conducting formal proceedings, in the context of its oversight of the UP/SP merger, to consider the matters. I assure you, however, that as it considers proposals for changes affecting the UP service area, and for regulatory changes applicable to the industry in general, the Board will remain cognizant of the need for vigorous competition along with strong competitors in the West and throughout the Nation, and it will remain committed to issuing decisions that are in the interest of railroads, shippers, and the Nation as a whole.

I am having your letter and this response placed in the formal docket in the UP/SP Houston/Gulf Coast oversight proceeding. If I can be of assistance to you in this or any other matter, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan

Linda J. Morgan

PAT ROBERTS
KANSAS

302 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1605
202-224-4774

COMMITTEES:
ARMED SERVICES
AGRICULTURE
INTELLIGENCE
ETHICS

United States Senate

WASHINGTON, DC 20510-1605

November 2, 1998

Ms. Linda J. Morgan
Chairman
Surface Transportation Board
1925 K Street NW
Washington, DC 20423

Dear Ms. Morgan:

I have been closely monitoring rail service during the 105th Congress and worked with a number of my colleagues on the Commerce Committee to improve shippers ability to seek competitive rail service.

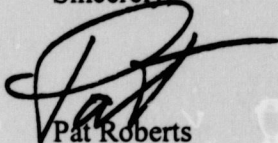
During our correspondence last year, I pointed out that Kansas relies upon railroads for the movement of agricultural commodities and manufactured goods in a timely and efficient manner. Last year, service problems in Houston greatly slowed down the ability to get Kansas grain to export facilities.

I hope the Board will use this proceeding to demonstrate that it will protect the public's interest and utilize its oversight authority to restore competition that existed prior to the merger. Specifically, the Consensus Plan developed by shippers and the Texas-Mexican Railway would permit more access to shippers by providing a third railroad to handle traffic in and out of Houston to the north and east. The Consensus Plan is a win-win design that would restore competition without undoing the benefits of the merger.

Because Kansans are concerned about rail service, I look forward to working with you to ensure that our rail transportation system remains competitive.

With every best wish,

Sincerely,



Pat Roberts

PR:ky

RECEIVED
SURFACE TRANSPORTATION
BOARD
NOV 5 2 10 PM '98
COMMUNICATIONS SECTION

STB FD 32760 (Sub 31) 8-28-98 J.

TROUTMAN SANDERS LLP

ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

1300 I STREET, N.W.
SUITE 500 EAST
WASHINGTON, D.C. 20005-3314
TELEPHONE: 202-274-2950
FACSIMILE: 202-274-2994

INTERNET: william.mullins@troutmansanders.com



William A. Mullins

August 25, 1998

VIA OVERNIGHT DELIVERY

Mr. Kenneth B. Cotton
Houston & Gulf Coast Railroad
3293 Areba
Houston, TX 77091

Re: Finance Docket No. 32760 (Sub-No. 31)
Union Pacific Corporation, Union Pacific Railroad Company And Missouri Pacific Railroad Company --Control And Merger -- Southern Pacific Fail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. And The Denver And Rio Grande Western Railroad Company [Houston/Gulf Coast Oversight Proceeding]

Dear Mr. Cotton:

Enclosed herewith are discovery requests directed to the Houston and Gulf Coast Railroad ("H&GC") in connection with the H&GC's application in the above-referenced matter for various trackage rights and line sales to be ordered on its behalf. Under the Surface Transportation Board's discovery procedures, the answers to these requests and the documents that they require you to produce are due to be completed and returned to this office by September 10, 1998. Because of the need to respond to H&GC's application by September 18, 1998, we will not be able to grant any extensions of that deadline.

To assist you in returning the completed materials to us, I am enclosing a pre-addressed, pre-paid Federal Express package addressed to this office. If you have any questions about this matter, please call me or Sandra Brown of this office. If you have an attorney in this matter, please call me with his or her name or have them call me immediately. Again, extension of the response deadline of September 10, 1998, will not be possible.

Sincerely,

William A. Mullins

Enclosures

cc: Richard A. Allen, Esquire (Tex Mex)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 32760 (Sub-No. 31)

**UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY**

--CONTROL AND MERGER --

**SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP. AND THE DENVER
AND RIO GRANDE WESTERN RAILROAD COMPANY**

HOUSTON/GULF COAST OVERSIGHT PROCEEDING

**FIRST DISCOVERY REQUESTS OF THE KANSAS CITY SOUTHERN RAILWAY
COMPANY AND THE TEXAS MEXICAN RAILWAY COMPANY DIRECTED TO
KENNETH B. COTTON AND HOUSTON AND GULF COAST RAILROAD**

**Richard P. Bruening
Robert K. Dreiling
THE KANSAS CITY SOUTHERN RAILWAY
COMPANY
114 West 11th Street
Kansas City, Missouri 64105
Tel: (816) 983-1392
Fax: (816) 983-1227**

**Richard A. Allen
Scott M. Zimmerman
Craig M. Cibak
ZUCKERT, SCOUTT & RASENBERGER, LLP
Suite 600
888 17th Street, N.W.
Washington, D.C. 20006-3939
Tel: (202) 298-8660
Fax: (202) 342-0683**

**Attorneys for The Texas Mexican Railway
Company**

**William A. Mullins
David C. Reeves
Sandra L. Brown
TROUTMAN SANDERS LLP
1300 I Street, N.W.
Suite 500 East
Washington, D.C. 20005-3314
Tel: (202) 274-2950
Fax: (202) 274-2994**

**Attorneys for The Kansas City Southern
Railway Company**

August 25, 1998

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 32760 (Sub-No. 31)

**UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY
—CONTROL AND MERGER—
SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP. AND THE DENVER
AND RIO GRANDE WESTERN RAILROAD COMPANY**

HOUSTON/GULF COAST OVERSIGHT PROCEEDING

**FIRST DISCOVERY REQUESTS OF THE KANSAS CITY SOUTHERN RAILWAY
COMPANY AND THE TEXAS MEXICAN RAILWAY COMPANY DIRECTED TO
KENNETH B. COTTON AND HOUSTON AND GULF COAST RAILROAD**

Pursuant to 49 C.F.R. §§ 1114.21 — 1114.31, The Kansas City Southern Railway Company ("KCS") and The Texas Mexican Railway Company ("Tex Mex") direct the following discovery requests to Kenneth B. Cotton and the Houston and Gulf Coast Railroad.¹

THE RAILROAD ENTITIES

1. "BNSF" means The Burlington Northern and Santa Fe Railway Company.
2. "HBT" means Houston Belt & Terminal Railway Company.
3. "KCS" means The Kansas City Southern Railway Company.
4. "Tex Mex" means The Texas Mexican Railway Company.
5. "H&GC" means Houston and Gulf Coast Railroad.

¹ KCS and Tex Mex direct these discovery requests to both Kenneth B. Cotton and the Houston and Gulf Coast Railroad because it is not obvious from the Application whether Mr. Cotton is seeking relief personally or as a representative of H&GC.

6. "The Undersigned Parties" means The Texas Mexican Railway Company and The Kansas City Southern Railway Company.
7. "UP" means Union Pacific Railroad Company and its predecessors, including but not limited to Missouri Pacific Railroad Company, Southern Pacific Rail Corporation and Southern Pacific Transportation Company, individually and collectively.

DEFINITIONS

1. "Applicant" means H&GC and Kenneth B. Cotton.
2. "Application" means the Application for Trackage Rights and Forced Line Sales filed with the Surface Transportation Board, a copy of which is attached hereto as Appendix A.
3. "Board" or "STB" means the Surface Transportation Board (or its predecessor agency, the Interstate Commerce Commission, if applicable).
4. "Describe" when used in relation to a discussion, meeting or other communication means to identify (a) the participants, (b) the date or time period when the communication took place, (c) the location of the participants at the time of the communication and (d) provide a detailed summary of the content of the communications.
5. "Document" means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including: intra-company communications; electronic mail; correspondence; telegrams; memoranda; contracts; instruments; studies; projections; forecasts; summaries; notes, or records of conversations or interviews; minutes, summaries, notes, or records of conferences or meetings; records or reports of negotiations; diaries; calendars; photographs; maps; tape recordings; computer tapes; computer disks; other computer storage devices; computer programs; computer printouts; models; statistical statements; graphs, charts; diagrams; plans; drawings; brochures; pamphlets;

news articles; reports; advertisements; circulars; trade letters; press releases; invoices; receipts; financial statements; accounting records; and workpapers and worksheets. Further the term "document" includes:

- a. both basic records and summaries of such records (including computer runs); and
 - b. both original versions and copies that differ in any respect from original version, including notes.
6. "Houston area" means the 35 mile radius extending from the Union Station in downtown Houston located at 501 Crawford Street.
7. "Identify,"
 - a. when used in relation to an individual, means to state (1) the name, (2) address, and (3) business telephone number of the individual, (4) the job title or position and (5) the employer of the individual at the time of the activity inquired of, and (6) the last-known position and employer of the individual;
 - b. when used in relation to a corporation, partnership, or other entity, means to state (1) the name of the entity and the (2) address and (3) telephone number of its principal place of business;
 - c. when used in relation to a document, means to:
 - (1) state the type of document (*e.g.*, letter, memorandum, report, chart);
 - (2) identify the author, each addressee, and each recipient; and
 - (3) state the number of pages, title, and date of the document;
 - d. when used in relation to an oral communication or statement, means to:
 - (1) identify the person making the communication or statement and the person, persons, or entity to whom the communication or statement was made;

- (2) state the date and place of the communication or statement;
 - (3) describe in detail the contents of the communication or statement; and
 - (4) identify all documents that refer to, relate to or evidence the communication or statement;
- e. when used in any other context means to describe or explain in detail.
8. "Including" means including but not limited to.
9. "Person" means an individual, company, partnership, or other entity of any kind.
10. "Provide" (except where the word is used with respect to providing service or equipment) or "describe" means to supply a complete narrative response.
11. "Produce" means to make available to the Undersigned Parties for copying and viewing.
12. "Relating to" a subject means making a statement about, referring to, or discussing the subject, including, as to actions, any decision to take, not take, defer, or defer decision, and including, as to any condition or state of affairs (*e.g.*, competition between carriers), its absence or potential existence.
13. "Shipper" means a user of rail services, including a consignor, a consignee, or a receiver.
14. "Studies, analyses and reports" include studies, analyses, and reports in whatever form, including letters, memoranda, tabulations, and computer printouts of data selected from a database.
15. References to railroads, shippers, and other companies include: subsidiaries; controlled, affiliated, and predecessor firms; divisions; subdivisions; components; units; and instrumentalities thereof.

INSTRUCTIONS

1. Any delay in production of requested information is certain to prejudice the Undersigned Parties' ability to present to the Board by September 18, 1998, their position on the application

filed in this proceeding. Accordingly, responsive documents must be produced to the undersigned counsel at Troutman Sanders LLP, 1300 I Street, N.W., Suite 500 East, Washington, D.C. 20005-3314, not later than fifteen (15) days after the date of service shown on the certificate of service attached hereto. Production of relevant information during that fifteen-day period is encouraged and requested. Objections, if any, should be made as soon as possible.

2. Applicant should contact William A. Mullins or Sandra L. Brown at (202) 274-2950 immediately to discuss any objections or questions with a view to resolving any dispute or issues of interpretation informally and expeditiously.

3. Unless otherwise specified, these discovery requests cover the period beginning January 1, 1993 and ending with the date of the response.

4. If Applicant has information that would permit a partial answer to any request, but it would have to conduct a special study to obtain information necessary to provide a more complete response to that request, and if the burden of conducting such special study would be greater for Applicant than for KCS or Tex Mex:

- a. state that fact;
- b. provide the partial answer that may be made with information available to Applicant;
- c. identify such business records, or any compilation, abstract, or summary based thereon, as will permit the undersigned parties to derive or ascertain a more complete answer; and
- d. as provided in 49 C.F.R. § 1114.26(b), produce such business records, or any compilation, abstract, or summary based thereon, as will permit the Undersigned Parties to derive or ascertain a more complete answer.

5. If any information or document is withheld on the ground that it is privileged or otherwise not discoverable,

- a. identify the information or document (in the manner provided in Definition 7 *supra*); and
 - b. state the basis for the claim that it is privileged or otherwise not discoverable.
6. Pursuant to 49 C.F.R. § 1114.29, Applicant is under a duty to seasonably supplement its responses with respect to any question, including if Applicant knows or later learns that its response to any request is incorrect.

DISCOVERY REQUESTS

1. State whether H&GC is -
 - a) a corporation;
 - b) a partnership;
 - c) a proprietorship; or
 - d) another form of business entity.
2. If H&GC is a corporation -
 - a) name the state in which it is incorporated;
 - b) state the year of its incorporation;
 - c) identify (1) its president;
 - (2) its vice-president(s);
 - (3) its corporate secretary;
 - (4) its treasurer;
 - (5) each member of its board of directors; and
 - d) list the experience in railroad operations and management (including companies worked for, positions held, number of years in each position held and a description of the responsibilities of each such position) for each of H&GC's top five officers and for its five most senior employees.

3. If H&GC is a partnership -
 - a) identify each of the partners;
 - b) if all partners do not hold equal interests in H&GC, state the proportionate interest of each partner in H&GC; and
 - c) list the experience in railroad operations and management (including companies worked for, positions held, number of years in each position held and a description of the responsibilities of each such position) for each of H&GC's partners and for its five most senior employees.
4. If H&GC is a proprietorship, identify each proprietor of H&GC and list the experience in railroad operations and management (including companies worked for, positions held, number of years in each position held and a description of the responsibilities of such position) for each such person and for H&GC's five most senior employees.
5. If H&GC is not a corporation, a partnership or a proprietorship, describe in complete detail the type of business entity which H&GC is, identify each of its owners and list the experience in railroad operations and management (including companies worked for, positions held, number of years in each position held and a description of the responsibilities of such position) for each of H&GC's owners and for its five most senior employees.
6. Identify Kenneth B. Cotton and describe his relationship to H&GC if not already fully described in response to one of the preceding questions. Also, state his current job, and all experience that he has in railroad management and operations (including each company worked for, each position held involving railroad management or operations, the number of years in each such position held, and a description of the responsibilities of each such position).
7. Describe all current railroad operations conducted by H&GC, including:

- a) identifying the termini of each main line and each branch line owned and operated by H&GC;
- b) identifying the termini of each main line and each branch line owned but not operated by H&GC;
- c) identifying the termini of each main line and each branch line operated but not owned by H&GC;
- d) stating the year in which H&GC first provided railroad service;
- e) identifying by authorizing agency, docket number and year of issuance each proceeding in which H&GC obtained each authority that it holds authorizing it to conduct railroad operations;
- f) identifying each shipper located on, or which loads or unloads freight on, a rail line served by H&GC;
- g) stating the number of loaded rail cars which H&GC moved during
 - (1) 1996;
 - (2) 1997;
 - (3) 1998 to the date shown on the certificate of service attached to these discovery requests.
- h) stating the average number of paid employees working 30 or more hours per week for H&GC during
 - (1) 1996,
 - (2) 1997, and
 - (3) 1998 to the date shown on the certificate of service attached to these discovery requests.

- i) stating the average number of hours of work per week obtained by H&GC from persons not identified in response to the preceding lettered paragraph, whether they are contractors, employees working less than 30 hours per week, or have some other relationship to H&GC, during
 - (1) 1997, and
 - (2) 1998 to the date shown on the certificate of service attached to these discovery requests.
- j) stating the largest number of locomotives owned by H&GC at any one time during 1998 (up to the date shown on the certificate of service attached to these requests).
- k) stating the largest number of locomotives leased by H&GC at any one time during 1998 (up to the date shown on the certificate of service attached to these requests) and the average period for which H&GC leased each locomotive that it has leased during that period.
- l) stating H&GC's gross revenues from railroad operations for
 - (1) 1996,
 - (2) 1997, and
 - (3) 1998 (up to the date shown on the certificate of service attached to these requests).
- m) identifying the last five fiscal years for which H&GC has filed federal income tax returns, and state H&GC's pre-tax profit shown on each of those returns.
- 8) If H&GC has not filed a federal income tax return in its own name for any of the last five years, but a federal income tax return filed by another person or persons has encompassed the

income and expenses from H&GC's railroad operations, identify that person or persons and provide copies of those tax returns.

9) State whether H&GC's request for trackage rights over the Rosenberg-Victoria line, if that line is sold to Tex Mex, would be instead of or in addition to the requested trackage rights over UP from Wharton to Rosenberg.

10) Assuming that the Board grants the Application in full, state the amount that the Applicant anticipates H&GC will pay to Tex Mex for the trackage rights over the Rosenberg to Victoria line in the event the Rosenberg to Victoria line is sold to Tex Mex and is placed in operation within 16 months of the date shown on the certificate of service attached to these requests.

11) With regard to the statement in the Application that the Applicant desires H&GC to have "switching rights between Victoria and Rosenberg, Texas," clarify whether that means local trackage rights (that is, the right to serve all current and potential future customers located along) on the line that exists or is to be rehabilitated or reconstructed between Rosenberg and Victoria if Tex Mex purchases that line from UP. If it does not, state with particularity what rights are requested.

12) With regard to the statement in the Application that the Applicant desires H&GC to have "trackage rights on the Union Pacific between Wharton, Texas and Rosenberg, Texas, and to allow interchange with BNSF at Rosenberg, Texas," clarify whether that means overhead but not local trackage rights; that is, not the right to serve shippers on UP's line between Wharton and Rosenberg. If not, state with particularity what rights are requested.

13) With regard to the statement in the Application that the Applicant asks for a grant of "trackage rights to the H&GC on the Union Pacific between Bay City, Texas and Algoa, Texas,

to allow interchange with BNSF at Algoa, Texas," clarify whether that means that Applicant is seeking overhead but not local trackage rights; that is, Applicant is not seeking to have H&GC serve shippers on UP's line between Bay City and Algoa. If not, state with particularity what rights are requested.

14) With regard to the statement in the Application that Applicant desires for H&GC "trackage rights on the Union Pacific between Rosenberg, Texas and Houston, Texas, via West Junction with access to PTR, New South Yard, Englewood and Settegast Yards,"

- a) clarify whether that means that Applicant seeks overhead but not local trackage rights; that is, the right to serve shippers on UP's line between Rosenberg and Houston?
- b) describe what is meant by "access to PTR, New South Yard, Englewood and Settegast Yards;" and
- c) state, to the best of H&GC's knowledge, what person owns and what person operates New South Yard.

15) State with particularity what "rights" are referred to in paragraph 5 of H&GC's Application by the phrase "This would also include rights over the lift bridge at Galveston, Texas."

16) Describe in complete detail H&GC's operating plan for each of the following portions of the Application:

- a) "Grant Houston and Gulf Coast Railroad trackage rights on the Union Pacific between Wharton, Texas and Rosenberg, Texas and to allow interchange with the BNSF at Rosenberg, Texas;"

- b) if the Rosenberg-Victoria line is sold to Tex Mex, "trackage rights from Victoria to Rosenberg on Tex Mex, with switching rights between Victoria and Rosenberg, Texas and to interchange with the Tex-Mex, BNSF, and UP at Victoria;"
- c) "Grant H&GC trackage rights on the Union Pacific between Rosenberg, Texas and Houston, Texas via West Junction with access to PTR, New South Yard, Englewood and Settegast Yards;"
- d) "Compel Union Pacific to sell its trackage from Congress Yard in Houston, Texas to M.P. 233.0 in Galveston, Texas to the Houston and Gulf Coast Railroad. This would also include rights over the lift bridge at Galveston, Texas. The H&GC is also requesting that the STB compel the Union Pacific to interchange all Galveston bound grain trains at Congress Yard in Houston, Texas or Rosenberg, Texas to the Houston and Gulf Coast Railroad. The H&GC also requests access to the Texas City Terminal Railway at Texas City, Texas;" and
- e) "Compel the Union Pacific to sell its trackage on the former Southern Pacific Galveston Subdivision from M.P. 38.8 to M.P. 55.6 with trackage rights over the lift bridge at Galveston, Texas."

For purposes of this request, "operating plan" means the information called for in 49 C.F.R. Section 1180.8 (1997), including a description of patterns of service on the lines, anticipated equipment requirements of the proposed system, traffic density charts and the effects of the proposals on (1) any rail passenger service on involved lines and (2) any deferred maintenance or capital improvements on the lines involved. A copy of 49 C.F.R. Section 1180.8 (1997) is attached for your reference.

17) Provide an impact analysis of the effects on rail traffic patterns as called for by 49 C.F.R. Section 1180.7 (1997) with respect to the Application. A copy of 49 C.F.R. Section 1180.7 (1997) is attached for your reference.

18) Provide financial information as required by 49 C.F.R. Section 1180.9 (1997) showing the changes in H&GC's financial data that are expected to result from a grant of the Application. A copy of 49 C.F.R. Section 1180.9 (1997) is attached for your reference.

19) Describe separately and in detail for each of the 6 numbered paragraphs of the Application the purpose of the request contained in the paragraph, the specific benefits which would accrue to the shipping public if the relief requested in the paragraph were granted, and the effect of granting the relief requested in the paragraph on other railroads serving the lines described in the paragraph.

20) State separately the amount of money that Applicant anticipates H&GC will pay UP for:

a) UP's "trackage from Congress Yard in Houston, Texas to M.P. 233.0 in Galveston, Texas [. . .]. This would also include rights over the lift bridge at Galveston, Texas;"

b) UP's "trackage on the former Southern Pacific Galveston Subdivision from M.P. 38.8 to M.P. 55.6 with trackage rights over the lift bridge at Galveston, Texas."

21) If Applicant anticipates that H&GC will pay cash for the purchases described in discovery requests 20(a) and 20(b) (above), state whether H&GC has sufficient retained earnings to pay the amounts identified in response to discovery requests 20(a) and 20(b) to purchase the named lines. If the answer to this discovery request is "yes," produce documents sufficient in Applicant's opinion to demonstrate that fact.

22) If Applicant anticipates that UP will finance the purchases described in discovery request 20(a) and 20(b), describe in complete detail the terms Applicant anticipates for such financing, and identify each discussion or other communication which Applicant or any of H&GC's officers, owners, directors, employees, agents or representatives have had with any officer, director, employee, agent or representative of UP regarding such financing. Produce all documents that relate to such discussions or other communications.

23) If Applicant anticipates that H&GC will acquire the lines described in discovery request 20(a) and 20(b) other than by purchase for cash or by UP financing the purchase, specify the means by which Applicant anticipates that H&GC will acquire the lines described in discovery request 20(a) and 20(b).

24) Describe in complete detail each discussion that Applicant or any H&GC officer, owner, director, employee, agent or representative of H&GC has had concerning any of the subjects addressed in any of the numbered paragraphs of the Application with any officer, director, employee, agent or representative of:

- a) UP;
- b) BNSF;
- c) Tex Mex;
- d) The Port Terminal Railroad Association ("PTRA") of Houston; and
- e) The Texas City Terminal Railway.

Produce all documents that relate to such discussions and communications.

25) Identify each person with whom Applicant or any of H&GC's officers, owners, directors, employees, agents or representatives have had any discussion or other communication about

financing all or any part of the transactions described the Application, and describe each such discussion and communication.

26) Explain in detail how Applicant believes that the grant of each numbered paragraph of the Application would:

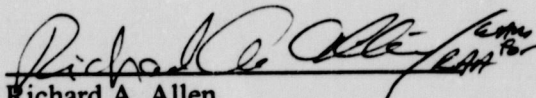
- a) allow "true competition on the Gulf Coast;"
- b) provide H&GC's shippers "more cost-effective and timely service [than] can be provided currently;" and
- c) "provide crucial SIT facilities for the plastic manufacturers in the Gulf Coast area as well as provide facilities closer to the sites that need them."

27) Provide copies of all studies made by or for Applicant or which are otherwise available to Applicant concerning rail traffic that H&GC does not now handle but which Applicant anticipates that H&GC would handle if the Application were granted.

28) Produce H&GC's audited financial statements for each of H&GC's last five years of railroad operations. If no such audited statements exist, produce H&GC's unaudited statements for the same period.


Respectfully submitted this 25th day of August, 1998.

Richard P. Bruening
Robert K. Dreiling
THE KANSAS CITY SOUTHERN RAILWAY
COMPANY
114 West 11th Street
Kansas City, Missouri 64105
Tel: (816) 983-1392
Fax: (816) 983-1227



Richard A. Allen
Scott M. Zimmerman
Craig M. Cibak
ZUCKERT, SCOUTT & RASENBERGER, LLP
888 17th Street, N.W.
Suite 600
Washington, D.C. 20006-3939
Tel: (202) 298-8660
Fax: (202) 342-0683

Attorneys for The Texas
Mexican Railway Company



William A. Mullins
David C. Reeves
Sandra L. Brown
TROUTMAN SANDERS LLP
1300 I Street, N.W.
Suite 500 East
Washington, D.C. 20005-3314
Tel: (202) 274-2950
Fax: (202) 274-2994

Attorneys for The Kansas City Southern
Railway Company

FILING FEE WAIVED

HOUSTON AND GULF COAST RAILROAD
3203 AREBA
HOUSTON, TEXAS 77091

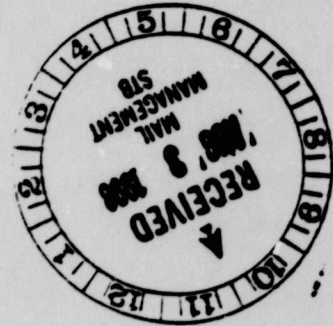
170 170
APPENDIX "A"

PERSONAL AND CONFIDENTIAL

Vernon Williams
Secretary, Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 24023

~~FD 33645~~
FD 33760-SUB 31

LETTER FOR PETITION AND WAIVER OF FILING FEES



Dear Secretary Williams:

The Houston and Gulf Coast Railroad is requesting a waiver of filing fees for the relief sought in the accompanying letter. The Houston and Gulf Coast is requesting this waiver of filing fees because such fees would create an undue burden to our operations and severely restrict our ability to conduct business.

The H&GC is also requesting permission to late file this application to the STB to provide relief to the congestion in the Gulf Coast area.

ENTERED
Office of the Secretary

AUG - 3 1998

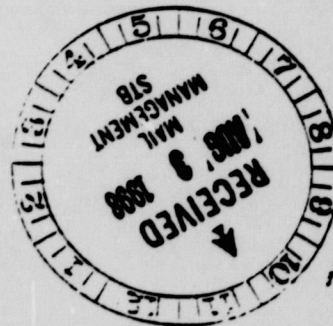
Part of
Public Record

FILED

AUG - 3 1998

U.S. DEPT. OF
TRANSPORTATION BOARD

**HOUSTON AND GULF COAST RAILROAD
3203 AREBA
HOUSTON, TEXAS 77091**



PERSONAL AND CONFIDENTIAL

**Vernon Williams
Secretary, Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 24023**

APPLICATION FOR TRACKAGE RIGHTS AND FORCED LINE SALES

The Houston and Gulf Coast Railroad is asking the Surface Transportation Board for the following relief to help alleviate congestion and provide competition on the Gulf Coast as a result of the Union Pacific-Southern Pacific merger:

- 1. Grant Houston and Gulf Coast Railroad trackage rights on the Union Pacific between Wharton, Texas and Rosenberg, Texas and to allow interchange with the BNSF at Rosenberg, Texas.**
- 2. If the Wharton-Rosenberg section and the Wharton-Victoria section is sold to Tex-Mex, the H&GC is requesting trackage rights from Victoria to Rosenberg on Tex-Mex, with switching rights between Victoria and Rosenberg, Texas and to interchange with the Tex-Mex, BNSF, and UP at Victoria:**
- 3. Grant H&GC trackage rights on the Union Pacific between Rosenberg, Texas and Houston, Texas via West Junction with access to PTR, New South Yard, Englewood and Settegast Yards:**
- 4. Grant trackage rights to the H&GC on the Union Pacific between Bay City, Texas and Alcoa, Texas to interchange with the BNSF at Alcoa:**
- 5. Compel the Union Pacific to sell its trackage from Congress Yard in Houston, Texas to M.P. 233.0 in Galveston, Texas to the Houston and Gulf Coast Railroad. This would also include rights over the lift bridge at Galveston, Texas. The H&GC is also requesting that the STB compel the Union Pacific to interchange all Galveston bound grain trains at Congress Yard in Houston, Texas or Rosenberg, Texas to the Houston and Gulf Coast Railroad. The H&GC also requests access to the Texas City Terminal Railway at Texas City, Texas.**
- 6. Compel the Union Pacific to sell its trackage on the former Southern Pacific Galveston Subdivision from M.P. 38.8 to M.P. 55.6 with trackage rights over the lift bridge at Galveston, Texas**

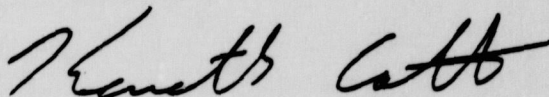
2

Should the STB grant the H&GC's request, these measures would allow:

- A. True competition on the Gulf Coast:
- B. Give the Houston and Gulf Coast access to the ports of Houston, Galveston, and Texas City to provide its shippers more cost-effective and timely service that can be currently provided:
- C. Provide crucial SIT facilities for the plastic manufacturers in the Gulf Coast area, as well as provide facilities closer to the sites that need them. Given the economies of short-line railroad operation, including relaxed work-rules which blur craft distinctions and more responsive customer relations, service would markedly improve in the Gulf Coast area, allowing the BNSF, UP, and Tex-Mex to do what they do best—handle freight long distances while leaving local haulage and switching to small railroads which gives closer links to customers and better co-ordination to optimize traffic flows into, and out of, the Gulf Coast area.

Should you have any questions, please feel free to contact me at any time. My phone number is 713-682-8458.

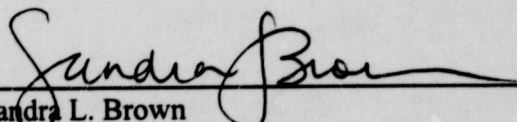
Sincerely,

A handwritten signature in cursive script, appearing to read "Kenneth Cotton".

Kenneth B. Cotton

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing "First Discovery Requests Of The Kansas City Southern Railway Company And The Texas Mexican Railway Company Directed To Kenneth B. Cotton And Houston And Gulf Coast Railroad" was served this 25th day of August, 1998, by overnight delivery service addressed to Kenneth B. Cotton and Houston & Gulf Coast Railroad, 3203 Areba, Houston, TX 77091, by hand delivery to counsel for UP and BNSF and The Honorable Stephen Grossman, and by first class mail upon other parties of record.


Sandra L. Brown
Attorney for The Kansas City Southern
Railway Company