

EX PARTE NO. 638

OPENING REMARKS BY COMMISSIONER LINDA J. MORGAN

FEBRUARY 27, 2002

We initiated this proceeding last September in response to continued concerns that rail maximum rate cases were burdensome for the parties and not moving to resolution quickly enough. The issues raised in this regard mattered to me, as a key objective of the Board since its establishment in 1996 has been to be a model of good government, government that gets its work done fairly and efficiently and that is not afraid to bring difficult issues to resolution when called upon to do so. That is why, over the course of the last several years, the Board took important steps to expedite rail rate cases by streamlining and simplifying the complaint process as never before. For major rate cases, we issued processing deadlines, put limits on discovery, developed a standardized procedure for submitting SAC evidence, simplified the market dominance procedure, and, as with the other matters before the agency, met our statutory deadlines.

Nevertheless, concern about the burdens and delays in getting large rate cases resolved has continued to be a topic of discussion before both the Board and Congress. Parties blame the other side for the problems, and, of course, end up placing the principal onus on the agency. As with our earlier initiatives, we must get beyond the blame game and look to additional remedies that make sense in the interest of good government. Today's hearing is important in assisting us to this end.

The Board's original proposals focus on two key areas: how to use less formal procedures to move rate matters to resolution; and how to reduce the delays associated with discovery in these cases. In the comments submitted as part of this proceeding, a key theme has emerged. Parties want a process that is even less burdensome and more streamlined, but each party also

wants a process that remains fair and does not diminish its right to full due process. Herein lies the classic conundrum of litigation management.

The parties participating here today have ground level experience with this inherent conflict, so I look forward to hearing from all of you as to how the Board should meet its challenge of resolving this dilemma in a balanced way. I appreciate the thoughtfulness of the parties in assessing the Board's original proposals, and the attendance of the participants at this hearing. And I anticipate making progress here today in further promoting our shared goal -- a streamlined and expedited rate review process that is fair to all sides.