

Voting Conference Statement

STB Ex Parte No. 282 (Sub-No. 20)

RAILROAD CONSOLIDATION PROCEDURES:
TEMPORARY TRACKAGE RIGHTS EXEMPTION

Statement of Patrick Crawford, Staff Attorney, Office of Proceedings

Good morning Chairman Nober and Commissioner Morgan.

By notice served on February 10, 2003, the Board proposed a new class exemption for authorization of trackage rights that, by their terms, expire on a particular date. The Board explained in this notice that, currently, a rail carrier may acquire trackage rights over the line of another rail carrier only if it receives the authorization of the Board and that parties often acquire this authority by filing a notice to invoke a class exemption. Trackage rights acquired under this class exemption extend indefinitely.

The Board explained that, in recent years, some carriers have sought trackage rights authority that does not extend indefinitely but, instead, expires after a finite period of time. Parties usually request such temporary trackage rights to conduct line repair, and they have sought them by first filing notices to invoke the class exemption and then subsequently filing requests that we limit the duration of the trackage rights. The cases you just considered en bloc are four examples of this two-filing process.

The Board stated that, although it has granted these subsequent requests on a case-by-case basis, it now thinks that it and the public would benefit from a rule that provides a class exemption for such temporary trackage rights. The Board demonstrated that the proposed

rule fulfills the statutory criteria for granting exemptions. Finally, the Board stated that, in implementing this class exemption, it would impose conditions to protect employees affected by the transaction.

After reviewing the public comments on this proposal, we recommend that the Board adopt this class exemption, subject to two modifications. First, because the vast majority of past temporary trackage rights cases have involved the use of overhead trackage rights only, and because no support in the record exists for applying the proposed class exemption to local trackage rights, we recommend that the Board confine the exemption to overhead trackage rights. Second, based on comments, we propose that the Board limit its authorization under this class exemption to no more than one year.

We would be happy to take any questions that you may have.