

Voting Conference, September 15, 2005

Statement of Terry Guy
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Kansas & Oklahoma Railroad, Inc.—Acquisition Exemption—Rail Line of Union Pacific
Railroad Company
STB Finance Docket No. 34746

Good Morning Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey

In the draft decision before you Kansas & Oklahoma Railroad Company, Inc. (K&O) seeks a waiver of the notice requirements at 49 CFR 1150.42(e). This would permit the exemption it filed under 49 CFR 1150.41 to become effective without providing advance notice to employees who may be affected by K&O's planned acquisition and continued operation of a rail line owned by Union Pacific Railroad Company (UP), and to the national offices of the employees' labor unions. K&O currently leases and has operated the 27-mile line of railroad between milepost 485, at Newton, KS, and milepost 512, at McPherson, KS, since September 2002. Because K&O's current revenues exceed \$5 million, the notice requirements would apply absent a waiver.

The draft decision before you grants the requested waiver. The purpose of the Board's notice requirements is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation. The record indicates that it is unlikely that any UP employees will be adversely affected by the waiver of the requirements. No UP employee has performed operations or maintenance on the line in nearly 3 years. The planned transaction will merely convert operation under a lease to a similar operation under K&O's ownership.

This concludes my statement. If you have questions, we would be happy to answer them.