

Surface Transportation Board Announces Results of December 13 Voting Conference

Surface Transportation Board Chairman Roger Nober today announced the results of the voting conference held today, December 13, 2004 by the STB.

The list of cases on which Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey voted, and the outcome of the voting, are attached as a fact sheet.

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ATTACHMENT

Fact Sheet

VOTING RESULTS OF SURFACE TRANSPORTATION BOARD'S DECEMBER 13, 2004 VOTING CONFERENCE

• ***Railroad Ventures, Inc.--Abandonment Exemption--Between Youngstown, OH, and Darlington, PA, in Mahoning and Columbiana Counties, OH, and Beaver County, PA, STB Docket No. AB-556 (Sub-No. 2X).***

Before the Members in this case were three remaining disputes among the parties concerning Railroad Ventures, Inc.'s (RVI) sale of a rail line in eastern Ohio and western Pennsylvania pursuant to the offer of financial assistance (OFA) provisions of the Interstate Commerce Act.

The Members voted, 3-0, to (1) deny an RVI petition to reopen the OFA proceeding in this matter; (2) grant a motion by Columbiana County Port Authority and Central Columbiana & Pennsylvania Railway, Inc. (collectively referred to as CCPA/CCPR), which bought the line, that the STB require RVI to answer interrogatories and to produce documents; and (3) address a joint CCPA-CCPR motion requesting the STB to determine whether funds that the agency had ordered to be transferred to them by RVI, as a condition to the forced sale of the line, after a previously established escrow arrangement had failed, were spent according to the STB's conditions.

• ***Arizona Public Service Company & PacifiCorp v. The Burlington Northern and Santa Fe Railway Company, Docket No. 41185.***

The Members voted, 3-0, to find that the evidence submitted by the parties on reopening of this railroad rate-complaint case because of the impending shutdown of the McKinley coal mine, near Gallup, New Mexico, affects the "stand-alone cost" analysis adopted by the STB in an earlier decision, and that the STB's previous rate prescription should be vacated. The Members thus voted to dismiss the proceeding.

• ***Public Service Company of Colorado d/b/a Xcel Energy v. The Burlington Northern and Santa Fe Railway Company, STB Docket No. 42057.***

The Members voted, 3-0, to make technical corrections to the agency's prior decision, issued in this proceeding on June 8, 2004, addressing the challenge by the Public Services Company of Colorado, doing business as Xcel Energy, to the reasonableness of the rates charged by The Burlington Northern and Santa Fe Railway Company for movements of coal from origins in the Powder River Basin of Wyoming to Xcel's Pawnee steam electric generating plant near Brush, Colorado.

• ***Otter Tail Power Company v. The Burlington Northern and Santa Fe Railway Company, STB Docket No. 42071.***

The Members voted, 3-0, to instruct both the Otter Tail Power Company and The Burlington Northern and Santa Fe Railway Company to file supplemental evidence so that the STB may have a full record upon which to analyze traffic-group issues raised in this railroad-rate complaint case.

• ***DHX Inc., v. Matson Navigation Company and Sea-Land Service, Inc.*, STB Docket No. WCC-105.**

The Members voted, 3-0, to deny an amended complaint filed by DHX, Inc., a freight forwarder (a cargo aggregator that assembles and consolidates the traffic of several shippers into larger lots), challenging the reasonableness of the rates and practices of Matson Navigation Company and Sea-Land Service, Inc., now known as Horizon Lines, Inc., two water carriers in noncontiguous domestic trade (domestic transportation service to or from points in Alaska, Hawaii, or U.S. territories or possessions).

• ***Motor Carrier Bureaus--Periodic Review Proceeding*, STB Ex Parte No. 656.**

The Members voted, 3-0, to begin the statutorily required, periodic (five-year) STB review proceeding for the agreements of trucking rate and service bureaus.

• ***Railroad Cost of Capital--2004*, STB Ex Parte No. 558 (Sub-No. 8).**

The Members voted, 3-0, to begin a proceeding to determine the railroad industry's cost of capital for the year 2004.

The STB's decision announcing the voting-conference agenda was issued on December 6, 2004 in *Meetings of the Board*, STB Ex Parte No. 333. That decision is available for viewing and downloading via the agency's Web site at <http://www.stb.dot.gov>. A printed copy of the agency's decision also is available for a fee by contacting **ASAP Document Solutions, 9332 Annapolis Rd., Suite 103, Lanham, MD 20706, telephone (202) 306-4004**, or via asapdc@verizon.net.

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