

SURFACE TRANSPORTATION BOARD ISSUES DECISION ALLOWING SMALL RAILROAD TO SUBSTITUTE ITS SERVICES FOR THOSE OF EXISTING CARRIER UNDER BOARD'S NEW RULES

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision granting the request of a small railroad to substitute its services for those of another small carrier that is not currently providing service on the line. The request was made under the Board's new rules establishing procedures for obtaining temporary alternative rail service to provide relief from service inadequacies.

The Board's New Rules. The Board's new rules were adopted in a decision issued on December 21, 1998, in *Expedited Relief for Service Inadequacies*, STB Ex Parte No. 628. Under the rules, shippers or connecting railroads receiving poor service from an "incumbent" carrier can seek temporary service from an alternative rail carrier. To ensure that the rules are not used to address minor service issues or situations that the parties themselves can resolve without Board involvement, the new procedures require petitioning shippers or carriers first to discuss and assess with the incumbent railroad whether adequate service can be restored within a reasonable time and, if not, explain why that is the case. See generally "Surface Transportation Board News" release No. 98-82, issued December 21, 1998.

The Case Before the Board. The request for relief was filed by the Denver Rock Island Railroad (DRI). DRI had sought an order authorizing it to provide interim rail service in Kansas on a 9.6-mile segment of line of the Kansas Southwestern Railway, L.L.C. (KSW). No rail service is currently being provided on the subject line, which has already been approved for abandonment. However, DRI is attempting to buy the line from KSW, and expects to close the transaction during August 1999. It stated that it needs temporary service authority so that it can respond to an urgent request for service by Stafford County Flour Mills Company. DRI indicated that it has discussed its proposal with the shipper and with the incumbent carrier, KSW, and KSW submitted a letter indicating that it and DRI had entered into a written agreement setting forth the terms and conditions of DRI's service proposal.

The Board granted DRI's request. Noting that the operations are to be conducted in accordance with Federal Railroad Administration regulations, the Board found that DRI had shown a need for immediate relief; that a grant of the request will not interfere with any of KSW's operations; and that there should also be no degradation of service to DRI's existing customers.

The Board's decision was issued on June 16, 1999 in *Denver Rock Island Railroad --Alternative Rail Service--Lines of Kansas Southwestern Railway Company*, STB Finance Docket No. 33762. It is available on the Board's web site at www.stb.dot.gov.

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