

**SURFACE TRANSPORTATION BOARD REITERATES GROUNDS FOR BOTTLENECK
RATE RELIEF, DISMISSES PENDING RATE CASE**

FOR RELEASE: Contact: Dennis Watson
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No. 97-43 TDD: (202) 565-1695

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REITERATES GROUNDS FOR
BOTTLENECK RATE RELIEF, DISMISSES PENDING RATE CASE**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision reiterating the grounds for bottleneck rate relief, and granting, without prejudice, a motion to dismiss a bottleneck rate complaint that did not establish any of these grounds for relief.

A "bottleneck segment" is the portion of a rail movement for which no alternative rail route is available. In its "*Bottleneck Proceedings*" decisions in *Central Power & Light Company v. Southern Pacific Transportation Company*, Nos. 41242 *et al.* (STB served Dec. 31, 1996), clarified by decision served Apr. 30, 1997, the Board set out the circumstances under which it would order bottleneck carriers to provide service, and under which it would prescribe railroad rates that would apply solely over a bottleneck segment of track. The Board found that:

- A bottleneck carrier cannot refuse to provide service to a shipper from an origin that it does not serve, but instead must accept traffic from the origin carrier at a reasonable interchange point and provide a route and rate to complete the transportation.
- A shipper can use existing competitive access procedures to obtain the prescription of a new through route from an origin that is served by the bottleneck carrier.
- And notwithstanding prior precedent generally restricting rate reasonableness challenges to origin-to-destination rates, when the non-bottleneck segment of a through route is covered by a rail/shipper contract, the rate covering the bottleneck segment is challengeable separately.

This proceeding involves a complaint filed by a coal shipper, Western Resources, Inc. (Western) against a railroad operating a bottleneck segment of track, The Atchison, Topeka and Santa Fe Railway Company (Santa Fe). Western did not establish grounds for route relief under the guidelines set out in the *Bottleneck* decisions, because it did not assert that Santa Fe would not provide service from a new origin, nor did it seek to use existing competitive access procedures to obtain a new through route from an existing origin. Western did seek to challenge Santa Fe's bottleneck rates separately, but because it does not have a contract for the non-bottleneck segment of the movements it contemplates, the Board found no basis on which it could

prescribe a bottleneck-segment rate.

Western also asked the Board to determine which of two interchange points (Kansas City or Topeka) Santa Fe should use to ship traffic from a new source. The Board noted that the decisions in the *Bottleneck Proceedings* described two circumstances in which a carrier could be ordered to serve through a particular interchange, when the carrier preferred to use a different interchange: (1) when a shipper brings a competitive access case in connection with a same-source bottleneck proceeding; or (2) when a bottleneck carrier disagrees with the interchange chosen by the shipper and the non-bottleneck carrier in a new-source bottleneck proceeding. Finding, however, that neither circumstance applies to this case, the Board stated:

If Santa Fe begins providing service with a connecting carrier through the Kansas City interchange, and Western is dissatisfied with the interchange, Western may file a competitive access case seeking an alternative routing over the Topeka interchange. If Western and one of the connecting carriers agree to route over Topeka, and Santa Fe resists, then the matter can be brought to us for the determination of whether Kansas City or Topeka is a more appropriate interchange. At this point, however, any action on our part determining whether Topeka is an appropriate interchange would be clearly premature.

The Board's decision in STB Docket No. 41604, Western Resources, Inc. v. The Atchison, Topeka and Santa Fe Railway Company, was issued to the public on May 28, 1997.

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