

SURFACE TRANSPORTATION BOARD ADOPTS FINAL RULES ON USER-FEE POLICY FOR CASES DIRECTLY RELATED OR RESPONSIVE TO RAIL CONSOLIDATION CASES

FOR RELEASE: i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½
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Monday, May 5, 1997 i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½
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**SURFACE TRANSPORTATION BOARD
ADOPTS FINAL RULES ON USER-FEE POLICY
FOR CASES DIRECTLY RELATED OR RESPONSIVE TO
RAIL CONSOLIDATION CASES**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has adopted final rules concerning its user-fee policy for proceedings "directly related" For example, requests for rail line abandonment, line construction, and so forth. or responsive Proceedings in which persons or parties seek to lessen perceived anticompetitive effects of a consolidation proposal through requests for trackage rights, etc. to major railroad consolidation cases. These final rules are, with one minor wording exception, the same as those contained in the Board's decision adopting interim rules on its user-fee policy in the case entitled Railroad Consolidation Procedures--Modification of Fee Policy, STB Ex Parte No. 556, issued to the public on March 4, 1997, and published that date in the Federal Register i:½ (at 62 FR 9714). i:½ The Board's March 4 decision provided a 30-day period during which

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the public was invited to file comments on the interim rules. i:½ No comments were received by the Board. The Board's final rules address the regulations at part 1180 of Title 49, Code of Federal Regulations (49 CFR 1180) and involve modifications to the Board's user-fee regulations at 49 CFR part 1002. i:½ Areas of 49 CFR part 1180 specifically addressed in the Board's final rules include cases directly related to, and filed with, a primary rail consolidation application and responsive applications, including inconsistent applications, Alternative proposals inconsistent with the primary application. filed after a primary rail consolidation application. To ensure that the costs associated with directly related proceedings are borne by the primary applicant--the direct beneficiary of the Board's action--the Board has modified its fee policy to require a separate filing fee for each and every directly related application, petition, and/or notice filed with a primary application. i:½ The fee for a directly related proceeding filed concurrently with a primary application now is the same as

an equivalent application filed separately.

In addition, under the Board's fee policy regulations prior to the interim rules, the same \$4,700 fee has been applied to any type of responsive application, including an inconsistent application.

The Board's costs for handling various types of these transactions, ranging from trackage rights to construction applications to inconsistent applications that are comparable to

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primary applications themselves, are not accurately reflected by a specific single fee. Therefore, the Board has modified its fee policy at 49 CFR 1180.4(d)(4)(ii) to provide that the fee for responsive applications not found to be inconsistent applications will be the fee stipulated in the fee schedule for the particular type of filing submitted as a responsive application. And the Board has added regulations at 49 CFR 1180.4(d)(4)(ii) to state that, for fee purposes, a responsive application determined by the Board to be an inconsistent application will be classified as a

"major," "significant," or "minor" transaction. A "major" transaction involves the control or merger of two or more Class I railroads (those with annual operating revenues of \$250 million or more over three consecutive years). A "significant" transaction does not involve the control or merger of two or more Class I railroads, but is of regional or national transportation significance. A "minor" transaction involves more than one railroad, but is not considered to be major, significant, or otherwise exempt from Board regulation. under 49 CFR 1180.2(a)-(c), and the fee assessed for an inconsistent application will be based on the classification of that particular transaction. The Board is retaining the general \$4,700 fee for responsive applications to cover any type of responsive application currently without a corresponding fee elsewhere within the fee schedule. Copies of the Board's final rules in the rulemaking proceeding entitled Railroad Consolidation Procedures--Modification of Fee Policy, STB Ex Parte No. 556, issued and effective today, **May 5, 1997**, are available by contacting **D.C. News & Data, Inc., Suite 210, 1925 K Street, N.W., Washington, DC 20006**, telephone (202) 289-4357.

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