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SEC

SERVICE DATE - LATE RELEASE JULY 14, 2004

## SURFACE TRANSPORTATION BOARD

### DECISION

STB Ex Parte No. 646

### RAIL RATE CHALLENGES IN SMALL RATE CASES

Decided: July 14, 2004

As indicated in a notice served on June 29, 2004 (June 29 Notice), the Board will hold a public hearing in this proceeding on Wednesday, July 21, 2004, beginning at 10:00 a.m., in Room 760 (the Board's Hearing Room), at the Board's headquarters in the Mercury Building, 1925 K Street, N.W., Washington, D.C.

As provided in the June 29 Notice, parties wishing to speak at the hearing were instructed to advise the Board of their intent to participate in the hearing, provide the name and title of each speaker, request a time allotment, and file such notice of intent by July 9, 2004. Notices of intent to speak were filed by: the United States Department of Transportation, the Association of American Railroads, American Chemistry Council, American Farm Bureau Federation, American Soybean Association, Colorado Wheat Administrative Committee, The Fertilizer Institute, Idaho Barley Commission, Idaho Wheat Commission, Kansas Wheat Commission, Montana Wheat & Barley Committee, National Association of Wheat Growers, National Barley Growers Association, National Corn Growers Association, National Council of Farmer Cooperatives, National Farmers Union, National Grain and Feed Association, National Grain Sorghum Producers, National Industrial Transportation League, North Dakota Grain Dealers Association, North Dakota Public Service Commission, North Dakota Wheat Commission, South Dakota Wheat Commission, Texas Wheat Producers Board, Washington Barley Commission, Washington Wheat Commission, Alliance for Rail Competition, Consumers United for Rail Equity, John D. Fitzgerald, General Chairman for the United Transportation Union (GO 386), on lines of The Burlington Northern and Santa Fe Railway Company, and Snavely King Majoros O'Connor & Lee, Inc.

The Board is issuing this decision to set a schedule for the hearing. The schedule of appearances and the time provided for each party appear in the Appendix to this decision. The hearing will provide a forum for the oral discussion of any proposals for handling small cases involving the challenge to the reasonableness of rates charged by a rail carrier. It will also provide an opportunity for participants to share with the Board their respective views on how "small rate cases" should be defined or identified. As the Board will have read any written submissions in advance of the hearing, witnesses need not read their written submissions at the

hearing, but should summarize their key points. The time allocations set forth in the Appendix are sufficient for these purposes.

If a party wishes to enhance its presentation by using projector-adaptable visual displays and/or handouts, it may do so. Staff will be available to demonstrate the Hearing Room's projection system on July 20, 2004, from 2 p.m. to 4 p.m. Please call (202) 565-1618 to make arrangements.

Quiet laptops and tape recorders may be brought into the Hearing Room, but no provision will be made for the connection of personal computers to Board telephone lines. Cellular telephone use is not permitted in the Hearing Room, or in the rear anteroom. Cellular phones may be used only outside the Hearing Room.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Time for the hearing is allotted as reflected in the Appendix to this decision.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary

**APPENDIX**

**SCHEDULE OF APPEARANCES**

**PARTY**

**TIME ALLOTTED**

**Panel I**

**5 minutes**

United States Department of Transportation

Speaker:

Paul Samuel Smith  
Senior Trial Attorney  
U.S. Department of Transportation

**Panel II**

**20 minutes**

Association of American Railroads

Speakers:

Edward R. Hamberger, President and CEO  
Association of American Railroads  
Larry R. Parsons, Chairman and CEO  
Wheeling & Lake Erie Railway Company,  
William J. Rennie, Vice President  
Mercer Management Consulting, Inc.  
Craig F. Rockey  
Vice President, Policy and Economics  
Association of American Railroads  
Louis P. Warchot  
Senior Vice President - Law and General Counsel  
Association of American Railroads

**Panel III**

**20 minutes**

American Chemistry Council  
American Farm Bureau Federation  
American Soybean Association  
Colorado Wheat Administrative Committee

The Fertilizer Institute  
Idaho Barley Commission,  
Idaho Wheat Commission  
Kansas Wheat Commission  
Montana Wheat & Barley Committee  
National Association of Wheat Growers  
National Barley Growers Association  
National Corn Growers Association  
National Council of Farmer Cooperatives  
National Farmers Union  
National Grain and Feed Association  
National Grain Sorghum Producers  
National Industrial Transportation League  
North Dakota Grain Dealers Association  
North Dakota Public Service Commission  
North Dakota Wheat Commission  
South Dakota Wheat Commission  
Texas Wheat Producers Board  
Washington Barley Commission  
Washington Wheat Commission  
Alliance for Rail Competition, and  
Consumers United for Rail Equity.

Speaker:

Nicholas J. DiMichael

**Panel IV**

**10 minutes**

John D. Fitzgerald, General Chairman for the United  
Transportation Union (GO 386), on lines of The Burlington  
Northern and Santa Fe Railway Company

5 minutes

Speaker:

Gordon P. MacDougall

Snavelly King Majoros O'Connor & Lee, Inc.

5 minutes

Speaker:

Tom O'Connor