

Original

Before the
SURFACE TRANSPORTATION BOARD



Finance Docket No. 34487

GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION
PETITION FOR A DECLARATORY ORDER

COMMENTS

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Due Date: March 31, 2004

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COMMENTS

John D. Fitzgerald,^{1/} for and on behalf of United Transportation Union-General Committee of Adjustment (UTU/GO-386), submits these comments in response to the Surface Transportation Board (STB) Institution of Declaratory Order Proceeding (IDOP), dated March 22, 2004. 58 Fed. Reg. 15433-34 (Mar. 25, 2004).

Railroad employees have an interest in maintaining rail service to railroad customers, where such may be required and/or justified. The maintenance of the common carrier obligation is important to the public as well as to employees.

The IDOP requests comments on whether the preemption provisions of 49 U.S.C. 10501(b)(2) preclude a state court from hearing a lawsuit alleging that a railroad has failed to carry out its common carrier obligation to provide service.

This commentator supports state authority to deal with rail service obligations; likewise, this commentator supports federal

^{1/} General Chairman for United Transportation Union on lines of The Burlington Northern and Santa Fe Railway Company, with offices at 400 E. Evergreen Boulevard, Vancouver, WA 98660.

authority. Moreover, it seems inappropriate for the STB to determine whether one or both courts are appropriate. The question is best resolved by the courts.

It is clear that the STB has neither the personnel nor the stamina to effectively deal with service inadequacy on its own. The STB is a very small agency, with only one or at the most two, persons to deal with the issue. STB expertise has become diminished in recent years. The agency appears to have a carrier, rather than a shipper, public, or employee view, with respect to rail obligations.

Continued state authority is desirable.

Respectfully submitted,


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March 31, 2004

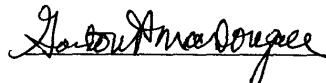
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Certificate of Service

I hereby certify I have served a copy of the foregoing upon the following by first class mail postage-prepaid:

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