Approved 3/3/87
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES.

The meeting was called to order by Sen. Bill Morris at
Chairperson

9:00 a.m./~~p.m.~~ on March 2, 1987 in room 254-E of the Capitol.

All members were present except:

Sen. Frey

Committee staff present:

Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Bruce Kinzie, Revisor
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

Sen. Mike Johnston
Sen. D. Montgomery
Rep. Bill Brady
Jim Smith, President, Oklahoma, Kansas and Texas Rail Users Association
Pat Hubbell, Kansas Railroad Association
R. N. Whitman, Executive Officer, MKT Railroad
Bill Barr, Union Pacific, Omaha
Joe Bateman, Union Pacific, Omaha
Bob Bartelli, Parsons
Marvin Cinatto, Parsons

HEARING ON S.R. 1825 - Opposing the merger of the Union Pacific Railroad and the MKT Railroad

Sen. Mike Johnston thanked the Committee for hearing this Resolution as it is unusual for hearings to be held on Resolutions. He said his motive for coming here was because of the frustration he was feeling on behalf of the citizens of Parsons and the effect this merger would have on employees of the MKT railroad. The employees had been given assurances that this was a business decision and that Union Pacific would work with the City of Parsons and try to transfer employees and give them severance pay. Sen. Johnston said Parsons had little to lose in opposing the merger. The city did not just want to lay there and play dead. He spoke of the bank closings in that area and said he was probably the only state senator in this country who had had 6 out of 13 banks closed in his district in the last 4 years. He brought this up so the Committee would realize the impact this closing would have in Southeast Kansas. He also said that Senators Dole and Kassebaum (Att. 1) along with Congressman Whittaker (Att. 2) had filed letters in opposition to this move with the Interstate Commerce Commission.

Rep. Bill Brady said he had filed the same resolution on the House side. The railroads are saying that this is "progress" but people now are making an average of $30,000 per year on the railroad and the new jobs they would get would not pay near that. He asked the support of the Committee on this Resolution and said it is very important to their community. A copy of his statement is attached. (Att. 3).

Bob Bartelli, representing the City of Parsons, said Sen. Johnston stated their position very well and they support S.R. 1825.

Marvin Cinatto, representing the City of Parsons, said he was speaking for the people in Parsons and they support the Resolution.

Sen. Montgomery said he could understand the problems of Parsons and Herrington but these were short term ramifications and over the long term there would be a positive effect. The MKT could fail and now the Union Pacific was offering merger protection to their employees.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,

room 254-E, Statehouse, at 9:00 a.m./~~p.m.~~ on March 2, 1987

Jim Smith, President, Oklahoma, Kansas and Texas Rail Users Association, said their group is made up of rail user groups, chambers of commerce and cooperatives. They have studied the proposed merger for over a year and they are in support of the merger and oppose S.C. 1825. He said there was substantial question about whether MKT could survive as a small regional carrier in the current deregulated rail environment and this merger could save them from going bankrupt. This merger was in the best interest of Kansas. A copy of his statement is attached. (Att. 4). He also submitted a file for committee records pertaining to comments filed with the ICC. (Att. 5).

Pat Hubbell, Kansas Railroad Association, said they were neutral in this issue but reminded the Committee that with the bankruptcy of the Rock Island Railroad there was no safety net for the employees, such as is being proposed by Union Pacific. The other mergers that have taken place in the state have all had a positive effect on the state. There is an adverse impact on some communities but these things are being worked out.

R.N. Whitman, MKT Executive, said when President Carter deregulated railroads it brought about the mergers. Car loadings are down and will continue to go down. The larger railroads can give better rates. He spoke of the importance of transcontinental lines in dealing with overseas shipments and said a small line could not make it. They could maybe make it for a couple of more years but going bankrupt is a real threat. They had always put everything back into their company and are now faced with a dilemma of whether to stay and fight until they go bankrupt or to do something now to help their employees by way of separation pay. They also have to think of their customers. He had clippings pertaining to the increased competition they were meeting. These were submitted for Committee records. (Att. 6). Their customers want the merger. If they can't keep up they will lose the customers they now have. He said he felt the only solution was to merge. The employees will be treated well. Most of them know the problem and know what they are up against.

Bill Barr, Union Pacific, Omaha, said this merger would have benefits for Union Pacific and also for shippers. There would be reduced manpower, consolidation of traffic, equipment utilization, shorter runs and abandonment of redundent lines. This should be approved as soon as possible.

Joe Bateman, Union Pacific, said this type of situation has been happening all over the country. It is unfortunate that some communities will be hurt, but the railroads have competition from the trucking industry and also from barges. They are closing down old shops in Parsons. They have met with the people of Parsons and are working with communities on their line. The employees are guaranteed up to six years' salary. If they get a job that pays less, they will bepaid the difference. They are giving Parsons time to adjust to the merger.

On a motion from Sen. Francisco and a second from Sen. Vidricksen the Minutes of February 25 and 26 were approved. Motion carried.

Meeting was adjourned at 10:00 a.m.

SENATE TRANSPORATION AND UTILITIES COMMITTEE

Date 3-2-87 Place 254-E Time 9:00

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Leroy Jones	Overland Park	B.L.E.
Ron Calbert	Newton	U.T.U.
Pat Hubbell	Topeka	Kansas RR Assoc.
William Barr	Omaha	Union Pacific RR
Sue Bateman	Omaha	Union Pacific RR
Keith Borman	Leawood	UP
Tom Whitaker	Topeka	Ks Motor Carriers Assn
John Conard	Topeka	Gov. Office
Larry Childs	Topeka	Bd. of Agri.
Harold Gaszler	Dallas	MKT
RN Whitman	"	"
Rep. Jayne Aylward	Legis.	
James K Smith	Herington	OKT
Don Montgomery	Sabetha	Senator
Ben R Baum	Topeka	KIN

SENATE TRANSPORATION AND UTILITIES COMMITTEE

Date ____________ Place ____________ Time ________

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Marrow W Arnott	418 Parkway Parsons	Mid-America
Bob Bartelli	311 Crestview	Parsonian Hotel
Bob Morrison	2015 Crawford Parsons	MKT R.R.

BOB DOLE
KANSAS

INTERSTATE COMMERCE COMMISSION RECEIVED
FEB 4 10 37 AM '87
PUBLIC AFFAIRS

United States Senate

OFFICE OF THE REPUBLICAN LEADER
WASHINGTON, DC 20510-7020

January 30, 1987

Ms. Heather Gradison
Chairman
Interstate Commerce Commission
12th and Constitution Avenue
Washington, D.C. 20423

Dear Chairman Gradison and Commission Members:

We are writing to express our opposition to the proposed merger of the Union Pacific (UP) and Missouri-Kansas-Texas (Katy) Railroads. Our review of the UP merger application reveals that the merger, as currently proposed, would have a tremendous negative impact on our home State of Kansas and result in an untold amount of human suffering.

As you are aware, the Katy Railroad has long been a major employer in the State of Kansas. More than 400 Katy employees currently work in the Parsons area, where the Katy has operated a large diesel locomotive and car repair shop since the early 1900s. UP in its merger application, states that the Katy diesel shop in Parsons would be abolished immediately, resulting in the termination of 171 jobs and the transfer of 100 people to other UP Divisions.

If the merger is approved, it is anticipated that the unemployment level in Labette county will raise over 2% - from 7.1%, where it currently stands, to 10%. The county will lose $8,000,000 in payroll, sales taxes in the area would decrease over $100,000, and assessed property valuation in the community of Parsons would decrease by $250,000. To expect a community the size of Parsons to absorb such a shock to its economy in such short period of time is unconscionable.

We have been advised that the community of Parsons will be filing extended comments in opposition to the merger. We hope that you will review the comments closely and agree with us that the merger application, as it currently stands, should not be approved.

Sincerely,

Nancy Landon Kassebaum
NANCY KASSEBAUM
United States Senate

Bob Dole
BOB DOLE
United States Senate

ATT. 1
T&U 3/2/87

B Whittaker
BOB WHITTAKER
Member of Congress

BOB WHITTAKER
5TH DISTRICT, KANSAS

COUNTIES

ALLEN
ANDERSON
BOURBON
BUTLER
CHASE
CHAUTAUQUA
CHEROKEE
COFFEY
COWLEY
CRAWFORD
ELK
FRANKLIN
GREENWOOD
HARVEY
LABETTE
LYON
MARION
MCPHERSON
MONTGOMERY
MORRIS
NEOSHO
OSAGE
WABAUNSEE
WILSON
WOODSON

Congress of the United States
House of Representatives
Washington, DC 20515

WASHINGTON OFFICE:
332 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3911

ENERGY & COMMERCE
COMMITTEE

February 27, 1987

Dear Mr. Chairman:

On behalf of Senators Bob Dole and Nancy Kassebaum, I am writing to share with you a copy of our filing with the Interstate Commerce Commission opposing the proposed merger of the Union Pacific (UP) and Missouri-Kansas-Texas (Katy) Railroads.

We understand that on March 2, your Committee will hold hearings on the merger proposal and its impact on our State. We appreciate your efforts in this area and wanted you to be aware of our opposition to the merger. I have enclosed a copy of our filing with the Interstate Commerce Commission and would ask that it be entered into your hearing record.

On behalf on Senators Dole and Kassebaum, I want to pledge our willingness to work with the Senate Transportation Committee as it addresses this important issue.

Thank you for your consideration.

Sincerely,

Bob Whittaker

Hon. Bill Morris
Chairman, Senate Transportation
Committee
State Capitol
Topeka, Kansas 66612

ATT. 2
T&U 3/2/87

Enclosure

STATE OF KANSAS

BILL BRADY
REPRESENTATIVE, SIXTH DISTRICT
LABETTE, MONTGOMERY COUNTIES
1328 GRAND
PARSONS, KANSAS 67357
(316) 421-6281

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER:
PENSIONS, INVESTMENTS AND BENEFITS
MEMBER: EDUCATION
JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE
JOINT COMMITTEE ON LEGISLATIVE EDUCATIONAL PLANNING

Mr. Chairman and members of the committee, I appreciate the opportunity to speak in support of SR 1825. A smiliar resolution has been introduced by Representative Lacey and myself on the House side. The people of Parsons and Labette County are anxious to have your support. They welcome the opportunity to tell you the story concerning the merger. They know that the potential to stop or greatly dilute the negative impact of the merger rests at the state level.

The state through the Department of Transportation has staff with the expertise necessary to determine the impact such a decision will have. Robert Dole, Senate Minority leader recently called the merger's effect on Parsons and the surrounding communities unconscionable ~~incorrigible~~. The people I represent are asking you to make a similar statement.

You will hear two central themes from the Union Pacific "Sorry, but this is progress" and "we want to help you through this tough time." Centainly if you accept absolutely what they say perhaps this is progress. Yet I fail to understand how purchasing a parallel line and providing Kansas with one less company to shop price with is progress. Through the years the MKT has been able to attract a good deal of business by offering a more competitive price. The MKT says that without this merger their future is limited. I am not an expert on railroads but if I were running the MKT, looking at the money set to be made if the merger is approved, I would make a similar statement. What better way to curtail the opposition. Such a statement concerns the shippers who depend on the service, the employee who believes he has some protection under New York Dock and the affected communities who's first concern is for the employees and their families.

ATT. 3
T&U 3/2/87

The Union Pacific says they stand ready to help Parsons through this difficult time. They have critized Parsons for not telling them what we want. Of course the loss of employment is the key to our opposition. Even if these jobs could be replaced one for one there is no one who believes that the annual payroll generated by the railroad employment could be replaced. For years railroad employment has offered one of the best financial opportunities for the citizens of our area. The average annual salary of the 350 jobs lost is $30,000.

Parsons has checked with other communities as suggested by the Union Pacific that were affected by an earlier merger. Both in Osawatomie, Kansas and Sedalia, Missouri city fathers tell us that the Union Pacific has failed to deliver any significent economic development assistance. Since the Union Pacific will not even maintain a main line through Parsons I simply do not believe they will try to locate one of their customers in Parsons. Even if one of their customers wanted to open a new plant and increase employment it seems more logical that they would want to locate them on their main line.

In conclusion, Senator Johnston, Representative Lacey and I, on behalf of many people in Southeast Kansas, need your support. This resolution is important to our communities. In my opinion, the state of Kansas will experience significant damage to several of its communities without corresponding benefits to any other communities either through an increase in employment or better rail services.

BEFORE THE TRANSPORTATION COMMITTEE

KANSAS SENATE

1987 SESSION, KANSAS LEGISLATURE

Written Testimony

of

James K. Smith, President

Oklahoma, Kansas and Texas Rail Users Association

Date March 2, 1987

Prepared by

J. Stan Sexton, of
HAMPTON, ROYCE, ENGLEMAN & NELSON
Ninth Floor, United Building
P. O. Box 1247
Salina, Kansas 67402-1247
(913) 827-7251
Attorneys for Defendant

ATT. 4
T & U 3/2/87

WRITTEN TESTIMONY

OF

JAMES K. SMITH, PRESIDENT

ON BEHALF OF

OKLAHOMA, KANSAS AND TEXAS RAIL USERS ASSOCIATION

My name is James K. Smith. I am President and Chairman of the Board of Directors of the First National Bank of Herington, Kansas with offices located at 101 South Broadway, Herington, Kansas 67449.

I am testifying before the Transportation Committee of the Kansas Senate today in my representative capacity as President of the Oklahoma, Kansas and Texas Rail Users Association ("Association"). The Association is a non-stock non-profit Kansas corporation comprised of members of the public at large, shippers, agricultural cooperatives, chambers of commerce, banks and other interested parties located in communities located along the line of railroad from Salina, Kansas south through Fort Worth-Dallas, Texas.

The Association was formed in May, 1980 and formally incorporated on June 2, 1980 for the specific and express purpose of restoring and providing for the continuation of rail freight service along this former Rock Island railroad line. While the Association has 52 formal members, because many of its members are rail user groups, chambers of commerce and cooperatives, the Association and its members actually represent the interests of approximately 400 rail users located on this old Rock Island line.

IDENTITY OF INTEREST

In addition to representing the interests of substantially all of the rail users located on the old Rock Island line, the Association is also the record title owner of the rail line itself located in the states of Kansas and Texas. On October 21, 1982, the Association, in cooperation with the state of Oklahoma, purchased all of the former Rock Island line located in the states of Kansas and Texas from Salina to Dallas-Fort Worth, Texas. The state of Oklahoma purchased the rail trackage in the state of Oklahoma. Both the Association and the State of Oklahoma in turn conditionally sold or leased this rail line to the Missouri-Kansas-Texas Railroad Company's ("MKT") subsidiary corporation, the Oklahoma, Kansas & Texas Railroad Company ("OKT").

Since the fall of 1982, rail freight service has been continuously provided on this OKT line by the OKT and MKT system. The Association therefore has a direct and immediate stake in the merger of the MKT/OKT system into the Union Pacific system. As owner of some 300 miles of rail line located in the states of Kansas and Texas, which the Association acquired with a $25 million dollar loan from the Federal Railroad Administration, the Association desires to have a financially strong and viable rail carrier as its contract operator, to provide for the continuation of rail freight service on the rail system and to make payments necessary to retire the Association's acquisition indebtedness. As a representative of the interests of shippers located along the line, the Association also has an interest in maintaining rail freight service on the line for the benefit of its members, and the public at large, who are heavily dependent upon rail transportation for their economic viability.

POSITION REGARDING PROPOSED MERGER

The Association, after more than one year of study and deliberation, and upon the unanimous vote of both its membership and its Board of Directors, has taken a position in support of the merger of the MKT/OKT system into the Union Pacific system. The Association is one of 380 shippers and shipper groups whose verified statements in support of the merger application are included in the merger application itself. For the sake of completeness, I am appending a copy of the Verified Statement given by the Association in support of the merger to the Interstate Commerce Commission to this testimony.

The Association's support for the merger application is based upon the judgment of its management and membership that the merger will insure the continuation of rail freight service on the OKT line well into the future, as well as their determination that the benefits of the merger outweigh any detriments.

DISCUSSION

I urge the Committee not to favorably report the resolution in opposition to the merger for two reasons. First, I truly believe that the benefits of the merger far outweigh the detriments or adverse impact that the merger will have to the state, as a whole. Secondly, I truly believe that the legislature is ill-equipped, at least at this time, to deal with such an issue as complex as this merger, and that any action taken at this time would be premature and without sufficient study.

Let me first direct my comments to the merits of the merger. By way of background on this issue, let me remind you that my community, Herington, Kansas, has had first hand experience in dealing with the adverse impact that a total cessation of rail freight service can have, not only upon the local economy, but upon shippers who are dependent upon rail freight service for their livelihood. Herington had always been a division point of the Chicago, Pacific & Rock Island Railroad Company ("Rock Island"). Prior to the last in a series of bankruptcies of the Rock Island in 1977, Herington occupied much the same position in the Rock Island system, as the City of Parsons has had in the MKT/OKT system. Approximately 350 persons in Herington, a community of 3500, were employed by the Rock Island. Moreover, there were many trains per day running both and east and west and north and south through Herington.

In 1980, after 3 unsuccessful years of attempting to reorganize itself in bankruptcy, the Rock Island ceased providing rail freight service on its rail lines and specifically, on what we now call the OKT line. Both rail freight service and associated jobs were non-existent for approximately one year. Through the efforts of the Association, which was formed when rail freight service was discontinued, we were able to restore some rail transportation service, and associated jobs, at least on a temporary basis for approximately one year during 1981. However, because of legal maneuvering on the Rock Island bankruptcy and other reasons, rail freight service was again totally eliminated for a 10 month period between December, 1981 and October, 1982. It was not until the Association acquired this Rock Island line, that jobs and rail freight service could be restored.

The greatest single benefit of the proposed merger, from my prospective, is that this merger will insure, that in the future, another bankruptcy, with a concomitant loss of rail transportation service and jobs, can be avoided. The Union Pacific system is a financially strong and viable rail carrier. There is substantial question about the MKT's ability to survive as a small regional carrier in the current deregulated rail environment. The MKT/OKT system is indebted to the Rail Users Association for $25 million dollars, the original acquisition loan. The ability of the MKT/OKT to retire this indebtedness is not without some question, especially in light of past operating losses on the rail line and the lack of any significant market turnaround given the state of the agricultural economy in the mid-west.

While I have empathy for the City of Parsons in light of the projected impact that the merger will have on that community, I have seen, first hand, what happens when a rail carrier ceases operations altogether due to bankruptcy. The impact of a total loss of jobs and a total loss of rail freight service is a total degree of magnitude greater than the impact that Parsons will face with the proposed merger. It is entirely possible, and in fact argued by many quite likely, that the MKT/OKT system can not survive in the future without this merger. If that is true, the City of Parsons, together with all other Kansas MKT/OKT communities and shippers face a rather dismal future, if the merger is disapproved. Therefore, I suggest that on the merits, this merger is truly in the best interests of all Kansans, and that the alternative to this merger may well be a future bankruptcy of the MKT/OKT system, and total loss of not only jobs, but rail transportation service itself.

Secondly, I would like to direct the balance of my remarks to make a second point; namely, that at least at this time, the legislature is ill-equipped to make the type of decision that is implicit in the resolution. Given the press of other business before the legislature, and the numerous factors and considerations that must be analyzed in the proposed merger, I submit that the Kansas legislature should defer a decision on the merits of the merger, pending further development of an evidentiary record before the Interstate Commerce Commission.

As a beginning proposition, you should understand that the merger application process before the Interstate Commerce Commission can last as long as 31 months from the date the merger application was accepted in December, 1986. All interested parties are permitted the opportunity to participate in the merger proceeding and to present evidence either in favor or against the proposed merger. Indeed, the City of Parsons, Kansas, which is advocating the present resolution, is a participant in the merger proceeding and is represented by counsel therein. The Commission is bound to take into consideration the impact and effect of the merger upon local economies and the extent to which the public interest would be affected by the merger. The Commission is tasked with the primary responsibility for making such determinations and that process has just begun.

In addition, action by the legislature could well pre-empt the position taken and to be taken in this merger proceeding by the state of Kansas. Indeed, the state of Kansas, as represented by its Secretary of Transportation, has filed initial comments in the merger proceeding in which the state has taken an undetermined position on the merger application "while reserving the right to amend its position at a later time to support or oppose the applications, and to offer verified statements in support or opposition to these applications and any other issues that may be raised in these proceedings." In his filing, the Secretary of

Transportation has noted that the Commission must give consideration to the MKT's present and future financial condition. The Secretary has noted that the state of Kansas has experienced bankruptcy and liquidation of the Rock Island Railroad and that the public interest would not be served by taking an action that would permit the MKT to meet a similar fate. Moreover, the Secretary has also noted that approximately 271 job positions at Parsons, Kansas would be eliminated as a result of the merger. However, the Secretary has noted that the Commission should also look at the broader public interest "to determine whether the adverse impact at Parsons, Kansas would be offset by any long term benefits to communities, or by other public benefits of the proposed merger." (KANS-1 at 5).

Indeed, the other three states in which UP/MKT trackage is located have likewise taken undetermined positions, pending the development of the evidentiary record in this case. The Missouri Highway and Transportation Commission has expressed no opposition to the merger, but seeks to separately consider the proposed merger-related abandonment of 37.7 miles of MKT line between Sedalia, Missouri and North Clinton, Missouri. The State of Oklahoma Transportation and Oklahoma Corporation Commission has taken an undetermined position at this time but has noted that the "State may be inclined to support the control and other authority requested by Applicants subject to the development of a record which is sufficient to assure the State that the benefits of the proposed control outweigh any negative impacts." (OKLA-1 at 1). The state of Oklahoma owns 350.9 miles of the rail line that is subject to the control application; has the largest merger-related line abandonment proposed by the UP/MKT, a distance of 169.4 miles of former Missouri Pacific mainline track between Muskogee and Durant, Oklahoma; and also stands to suffer job impacts of $37.5 million dollars in eliminated wages affecting 1,158 positions. These immediate and tangible detriments notwithstanding, the state of Oklahoma indicates that on balance, the public benefit may well be served by the merger, if the evidentiary record developed during the proceeding demonstrates long term viability and maintenance of rail freight service.

Finally, the Railroad Commission of Texas has taken an undetermined position, pending development of an evidentiary record regarding any adverse impact upon local Texas communities such as Dennison, Waco and Garland.

I submit that our new Governor, Mike Hayden, together with his new Secretary of Transportation, Horace B. Edwards, who only took office one month ago, on February 2, 1987, must not have their hands tied in developing the state of Kansas' eventual position on this merger proceeding. Indeed, it could well be that the state may eventually support the merger application itself, but move to sever for separate consideration or independently object to merger-related abandonments in the state of Kansas. The Kansas Corporation Commission, by separate filing in the merger proceeding, has already indicated its intent to oppose merger-related abandonments, while taking an undetermined position on the control application itself.

CONCLUSION

I want to thank the Committee for the opportunity to address you and to present testimony in opposition to the pending resolution. I would like to reiterate both points that I have sought to make clear in my testimony. First, I believe that the merger application, taken as a whole, is in the public interest for the general shipping public, for the state of Kansas, and indeed, for the 400 members of the Oklahoma, Kansas and Texas Rail Users Association who have voted unanimously to support the merger. The driving consideration for me is the very real and substantial possibility that the MKT/OKT system cannot survive in this deregulated rail environment and that ultimately, in the absence of this merger, we may be facing another bankruptcy situation like we faced when the Rock Island filed for bankruptcy. In that kind of scenario, we will have not only a total loss of jobs and employment, but a cessation of rail freight service. I have had first hand experience with this type of situation in Herington, Kansas. I recognize that the loss of some jobs and transfer of others in southeast Kansas may be a bitter pill to swallow. However, I submit that this impact is much more palatable than a total loss of jobs and cessation of rail freight service should the merger be denied and should the MKT/OKT system declare bankruptcy in the near future.

Secondly, I submit that the legislature is ill-equipped to properly consider and take action on this resolution at this time. The state of Kansas, acting through the Secretary of Transportation and the Kansas Corporation Commission, are better equipped to evaluate the impacts of rail mergers upon the citizens of the state. Within the last 8 years, these agencies have developed positions for the state in the Union Pacific-Missouri Pacific and Santa Fe-Southern Pacific merger cases. The positions taken by the state in these applications were based upon detailed study and analysis on the impact of the merger on the state as a whole, not simply isolated impacts on one or two communities or a specific geographical region. The legislature should not take any action that would tie the hands of the Governor and entire executive branch of state government in developing a position in this merger case that is in the best interests of all of the people of the state of Kansas. Given the fact that the Kansas executive branch is just now developing and analyzing its position on this merger case, and in further recognition that these state agencies, and not the legislature have expertise in this area, the current push to commit to a position in opposition to the merger is at best premature, and at worst not in the best interests of all Kansans.

Mr. Chairman, I again thank you for the opportunity to testify.

James K. Smith, President
Oklahoma, Kansas and Texas Rail
Users Association

VERIFIED STATEMENT

OF

JAMES K. SMITH

ON BEHALF OF

OKLAHOMA, KANSAS AND TEXAS RAIL USERS ASSOCIATION

My name is James K. Smith. I am President and Chairman of the Board of Directors of the First National Bank of Herington, with offices located at 101 South Broadway, Herington, Kansas 67449.

I am giving this verified statement in my capacity as President of the Oklahoma, Kansas and Texas Rail Users Association ("OKTRUA" or "Association"). OKTRUA is a non-stock, non-profit Kansas corporation comprised of members of the public at large, shippers, agricultural cooperatives, chambers of commerce, banks and other interested persons located in communities along the line of railroad from Salina, Kansas south through Fort Worth-Dallas, Texas. The Association was formed in May, 1980 and formally incorporated on June 2, 1980 for specific and express purpose of restoring, and providing for the continuation of, rail freight service along this former Rock Island line. I have attached, as Exhibit 1, a listing of the 52 formal members of the Association. Because many of OKTRUA's members are rail user groups, chambers of commerce and cooperatives serving many

ATT. 4
3/2/87

customers, the Association and its members actually represent the interests of approximately 400 rail users located on the old Rock Island line.

Identity of Interest

OKTRUA, in addition to representing the interests of substantially all of the rail users located on the rail line from Salina, Kansas to Fort Worth-Dallas, Texas as discussed above, is also the record title owner of the rail line itself, located in the State of Kansas and Texas. These rail lines, properties and rights acquired from the Rock Island Trustee by contract dated October 21, 1982 and include (a) all lines from Salina, Kansas south through Herington, Kansas to the Kansas-Oklahoma state line and from the Oklahoma-Texas state line to Purina Junction at Mile Post 611.9, at Fort Worth, Tarrant County, Texas; (b) a permanent freight easement from Mile Post 611.9 in Tarrant County, Texas to Tower 55, a distance of approximately 1 mile; (c) all of the Rock Island's stock rights and ownership interests in Wichita Union Railway Terminal Company and Wichita Terminal Association; and (d) trackage rights described in the contract of sale of those rail lines from the Rock Island Trustee to the Association. The fact that OKTRUA is an owner of a good part of the rail line that would ultimately be acquired by the Union Pacific by virtue of this merger creates a unique and separate interest from its status as a corporate entity representing shipper interests on the line.

As the Commission will surely recall, on April 24, 1980, William Gibbons, Trustee of the Rock Island, filed an application to abandon all lines and discontinue all operations of the Rock Island, including that line from Salina, Kansas to Fort Worth-Dallas, Texas ("OKT line"). This abandonment was the driving impetus behind the formation of OKTRUA. Within 30 days after the Trustee's filing of this application, individual members of what eventually became this Association:

- Urged the Missouri-Kansas-Texas Railroad Company ("MKT") to investigate the possibility of restoring rail freight service on this line.
- Raised $3 million dollars to start up funds to meet the MKT's condition that it would restore and continuously provide freight service on the line and incorporate a wholly owned subsidiary, the Oklahoma, Kansas & Texas Railroad Company ("OKT"), for that purpose if $3 million could be raised within 30 days.
- Called upon the Congress to enact special legislation to permit the Commission to temporarily designate an operator over the line to obtain leverage over the Rock Island Trustee to permit

MKT to successfully negotiate a lease of the lines.

- Participated in countless meetings and hearings before the Rock Island Bankruptcy Court to assist the MKT in obtaining a lease from the Rock Island Trustee to restore rail freight operations on the lines, which lease was subsequently assigned to the OKT which provided operations for the next 18 months.

During this period of service, OKTRUA, together with the state of Oklahoma and the MKT tried unsuccessfully to negotiate a purchase of the entire line. It was only after the bankruptcy court ordered freight service to be terminated on December 31, 1981, and shippers had endured 11 months without service that negotiations were successful. Together with the state of Oklahoma and the MKT, OKTRUA offered the Trustee and the Trustee accepted $55 million dollars for the acquisition of the entire line from Salina, Kansas to Fort Worth-Dallas, Texas. The Association paid $25 million dollars for the rail lines, trackage rights and associated properties located in the states of Kansas and Texas, which sum was funded by a loan from the Federal Railroad Administration under a loan made pursuant to Section 505(h) of the Railroad Revitalization and Regulating Reform Act of 1976. The state of Oklahoma paid $15 million dollars for the rail lines, trackage rights and associated rail properties located in the state of Oklahoma. Finally, the MKT paid $15 million dollars for the Dallas-Fort Worth corridor to link the OKT with the MKT main line. After the sale contract was closed on October 21, 1982, the OKT, under contractual arrangements with the state of Oklahoma and OKTRUA, restored rail freight service on the lines in November of that year.

Under the terms of a Financing Agreement existing between the Administrator of the Federal Railroad Administration and this Association, dated October 21, 1982, OKTRUA is obligated to repay the $25 million dollar loan over a 20 year term; rehabilitate and restore all trackage acquired with loan proceeds in accordance with a rather ambitious rehabilitation schedule; and continuously provide rail freight service on the lines.

As of October 21, 1982, the Association conditionally sold the rail properties acquired with FRA Section 505 funds to the OKT under an Installment Sales Contract. Under the contract, the OKT is obligated to make all payments of principal and interest and perform all obligations and covenants of the Association under the Financing Agreement. Moreover, in connection with the Association's loan, the MKT was required to guarantee repayment of the entire debt and performance of all obligations and covenants contained in the Financing Agreement.

OKTRUA, in addition to having interests in the OKT line as the representation association of shippers located thereon and as an owner of both ends of the line, has a separate interest as the representative of member creditors of the OKT. 49 members of the Association remain creditors of the OKT by virtue of the original $3 million dollar operating loan made in 1980 to restore freight service. As a condition of obtaining federal funding to acquire the lines in question in 1982, Association members had to place the $1.9 million dollar indebtedness that remained of the original $3 million dollar operating loan in a stand-by status. The Federal Railroad Administration did not want any creditor of the OKT to receive any principal payments on indebtedness associated with operations on the line before the Association started making principal payments on the Section 505(h) indebtedness. As a consequence, the 49 members of the Association placed their loans to the OKT in a deferred payment status. Currently First National Bank of Herington, as fiscal agent for the 49 Association members, holds a promissory note dated September 30, 1982 from the OKT in the principal amount of $1,962,406.88. The note provides for interest at the rate of 10% per annum. The OKT is obligated to retire the indebtedness with 30 equal quarter-annual installments of principal and interest beginning March 30, 1988 and ending June 30, 1995. Each shipper is to receive a fractional share of each quarter-annual installment, determined by dividing the amount of each shipper's loan principal by the aggregate principal amount of the loan. This is a financial obligation of the OKT, which is neither secured nor guaranteed.

Goals of Association

Given the interests of the Association identified above as (1) a representative of shipper-members located on the rail line; (2) as an owner of the rail line and properties located in the states of Kansas and Texas; and (3) as a representative of the 49 shipper-members who are owed approximately $1.9 million dollars by the OKT, and in recognition of the Association's reason for being in the first instance, it is not difficult for the Commission to understand the primary objective and goal of this Association. That goal is to ensure that the rail freight service that has been restored to the OKT line is continued. When evaluating its position on the proposed UP/MKT merger, the Association, through both its Board of Directors and its membership, at special meetings held in Oklahoma City, Oklahoma on October 15, 1986, unanimously passed a resolution, a copy of which is attached as Exhibit 2, which re-states the continuation of rail freight service on the OKT line as the Association's entire reason for being.

In evaluating the merger, Association officers had frank and candid discussions with Union Pacific management about maintaining the quality and level of rail freight service rendered by the OKT; evaluating potential merger-related abandonments, and any intended abandonment or change in use of the lines in question that could occur after the merger; and repayment of indebtedness of the OKT to both OKTRUA and its members. As a result of these discussions, OKTRUA review of the Union Pacific's preliminary operating plan dated September 11, 1986, and the Union Pacific's agreement to the principles of support stated in the resolution attached hereto as Exhibit 2, I am authorized on behalf of the Association to communicate the Association's full, complete and unequivocal support for this merger based upon the discussions and agreement between the Union Pacific and OKTRUA.

Preservation of MKT/OKT Service

As amply demonstrated by OKTRUA's very existence, members of our Association are by no means strangers to the plight of financially weak carriers. OKTRUA members suffered through the arduous Rock Island bankruptcy, which caused many of our members substantial hardships due to service interruptions and the ultimate suspension of rail service. Our members have no desire to re-live the Rock Island experience.

Although OKTRUA has been very satisfied with its present rail service, the Association is concerned about the MKT/OKT's financial viability in the long term. MKT/OKT, as a small regional railroad serving limited markets, faces an uphill battle to compete with larger national railroads such as Burlington Northern, Santa Fe, Southern Pacific, Kansas City Southern and Union Pacific in the competitive rail corridors from St. Louis and Kansas City to Dallas, Houston and the Gulf of Mexico. In addition, MKT/OKT must compete with barges and trucks for transportation business. While several carriers have the financial resources to withstand such competition, MKT may not. Despite excellent management, operation and service the long-term financial viability of the MKT/OKT is not without question.

Moreover, since the passage of the Staggers Act, regional railroads such as MKT/OKT have experienced even greater competitive challenges. The Staggers Act brought about increased rate freedom for rail carriers but places a high premium on a carrier's ability to publish single-line rates without having to negotiate divisions and revenue requirements with connecting carriers and to negotiate rail transportation contracts with shippers. As a result, regional carriers such as MKT/OKT, which count not only on their connections to reach major markets but also for spot traffic that is lost with rail contracting, have found it especially difficult to compete effectively for rail transportation.

We feel that a logical solution to MKT/OKT's competitive problems is merger with a financially strong carrier that can compete effectively and also assure MKT/OKT's customers reliable rail service over the long term. We feel that Union Pacific is such a carrier and that a UP/MKT merger would provide our members strong, competitive rail service for many years to come.

We are, of course, also concerned that Union Pacific continue the high quality rail service that we have come to enjoy from MKT/OKT. When the MKT/OKT merger was first announced, we were concerned that a major carrier such as Union Pacific might not have MKT/OKT's personal "hands-on" commitment to small shippers located on the OKT. Specifically, we were worried that UP's plans to utilize the OKT as a major route for moving grain from Central Kansas to the Gulf might lead to an emphasis on unit train movements from major points at the expense of our smaller shippers who depend on regular local service. We were also worried about possible abandonments of OKT line segments which are extremely important to some of our members. However, after carefully considering the proposed merger, discussing plans for OKT's operation with Union Pacific officials, and clarifying the contractual rights of the OKTRUA regarding abandonments, we are fully satisfied that Union Pacific is committed to providing top quality service to our shippers and maintaining existing rail service over the OKT lines.[1]

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[1]Although Union Pacific originally proposed several merger-related abandonments of track owned by OKTRUA, the carrier has now assured the Association Board that all OKTRUA members will continue to receive at least local service and that any future abandonments will be only with OKTRUA consent, which consent will not be unreasonably withheld. OKTRUA consent has been given to two merger-related abandonments: one segment between Abilene and Herington, Kansas (which abandonment shall
(Footnote Continued)

Repayment of OKT Indebtedness

OKTRUA's second concern, that the OKT's indebtedness to the Association under the terms of the Installment Sales Contract between the Association and the OKT dated as of October 21, 1982, and OKT's separate indebtedness to 49 shipper-members of the Association for repayment of the original operating loans made in 1980, is perhaps the easiest concern to be satisfied by this merger. Without question, the Union Pacific is financially sound. An assumption of the OKT's liabilities to the Association and its members by the Union Pacific, from a financial perspective, is a major positive development. The Association is fully aware of the MKT's financial condition as a small regional carrier struggling to maintain its share of the transportation market against national super carriers. While the Association

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(Footnote Continued)
not interrupt service to OKTRUA members at Pearl and Woodbine, Kansas) and a second segment from Lawton to Walters, Oklahoma. Neither track segment to be abandoned as a result of the merger has shippers located on it nor is either currently used or necessary for use by our members for rail freight service. Union Pacific has stated, however, that it may consider (a) not rehabilitating and/or (b) abandoning the Walters-Waurika segment of the OKT in Oklahoma after the merger if traffic levels and cost considerations dictate. This segment of track is owned by the State of Oklahoma and does have an OKTRUA member located on it. By reciting the Union Pacific's position, OKTRUA does not indicate, in any way, that it will consent to an abandonment to the Walters-Waurika segment if such abandonment is proposed in the future.

has no reason to believe that the OKT's financial obligations to it and its members would not be met, it is reassuring to know that, if the merger is approved as requested by this Association, these obligations will be backed by such a financially strong company as the Union Pacific.

With regard to OKTRUA's indebtedness to the FRA by virtue of the Section 505(h) loan, the Association intends to use its best efforts to insure that the merger will not displace any aspect of the Financing Agreement or accelerate any part of the indebtedness. Moreover, the Association will request any necessary amendment to the Financing Agreement to permit the limited merger-related abandonments identified herein as well as any modification of the rehabilitation plan that may be reasonable and prudent given the anticipated change in use of a portion of the OKT line from main line to branch line operations once integrated into the Union Pacific System.

With respect to MKT indebtedness to the FRA, we understand that Union Pacific is now negotiating an assumption of MKT loan obligations. The Association will use its best efforts to convince the FRA that any loan prepayment premiums that might be technically due by virtue of the assumption be foregone, and that the assumption be permitted on reasonable terms.

Finally, by virtue of the merger, the OKT's current $1.9 million indebtedness to shipper-members would be backed by the Union Pacific. As with OKTRUA indebtedness to FRA, it will be reassuring to our members to know that the financial strength of the UP System will be there to ensure payment of this obligation, which runs from as little as $348.11 for one member to as much as $361,722.63 for several members. In fact, six Association members are owed in excess of $175,000 each under the stand-by notes. While repayment of these obligations is important to our members, the continuation of rail freight service continues to be the number one priority. Fortunately, the proposed merger will permit the Association and its membership to satisfy both goals: the continuation of rail service to all of our members and repayment of OKT indebtedness to OKTRUA and its shipper-members.

Merger Benefits

OKTRUA, and its members are enthusiastic about the many significant benefits of the proposed merger. Not only can the Association see its priorities of continued rail service to all members and repayment of OKT indebtedness satisfied by the merger; it sees significant benefits accruing as well. These benefits will include single-system service, access to new markets, improved track maintenance and greater equipment supply.

Union Pacific serves all the major Gulf ports, including the important ports of Corpus Christi and Beaumont, Texas. MKT, however, serves only Houston and Galveston. Currently, Association members must route traffic to Corpus Christi and Beaumont via joint routes in connection with either Missouri Pacific or

Southern Pacific. After the merger, OKTRUA members will be able to move export shipments to additional Gulf ports on a single-system basis, just as many of their competitors now do.

The merger will also bring about single-system service to the Mexican border crossings. For example, the merger would provide OKT shippers single-system service to the gateways of Brownsville, Laredo and El Paso, Texas for shipments which now must move via joint line routes. Maintaining a competitive posture in Mexican markets is extremely important to our shippers. Last year OKTRUA members were responsible for the shipment of substantially all MKT/OKT movements of grain into Mexico. It is anticipated that this market will grow after the merger. Single-system service will also benefit members on our inbound shipments, which include a wide variety of commodities from many origins, including lumber from the Pacific Northwest and TOFC traffic from the West and Midwest. The single-system service for inbound moves would provide members a better, more efficient link to their suppliers.

The merger will also bring expanded competitive service to Oklahoma City, Oklahoma's capital and fastest-growing business area. At present, MKT/OKT is not a strong competitive force in Oklahoma City because its lines are not well maintained and it provides only tri-weekly service. We have been assured that after the merger, Union Pacific will upgrade the lines and improve service to this important market.

Union Pacific System is now moving wheat to southeastern domestic markets via the Memphis gateway. This southeastern market represents another opportunity which is now foreclosed to Association members due to the lack of single-system service. The merger would permit us competitive access to this market.

The MKT merger will also reduce our members' mileage to St. Louis, which is an important gateway for eastern flour milling, and to Kansas City, which is an important gateway for feed grains and milling. OKT shippers will also enjoy shorter, more efficient routes from Salina, Kansas to the Gulf, as well as a more direct route from Fort Worth to the Gulf. Reduced mileage for these routes will translate into better, more reliable transit times and more competitive rates.

The merger would also help improve track and facility maintenance on the OKT. While the OKT has complied with FRA's ambitious rehabilitation plan to date, the prospects of continued compliance during 1987 and outyears, when principal and interest payments become due under terms of OKTRUA's notes to FRA, is not without question. We are confident that Union Pacific, which has a reputation of maintaining its track and facilities to high standards, will make sure that OKT's facilities meet the necessary standards for top-notch rail service.

OKTRUA members would also welcome Union Pacific's additional equipment to supplement the MKT/OKT car fleet. Union Pacific operates a covered hopper fleet of approximately 15,000. They have leased several hundred of these hoppers to MKT/OKT in the past during harvest when MKT/OKT was short of equipment. When the market dictates that our members' crops must move, our rail carrier must be able to provide sufficient equipment to meet our needs in order to keep our members fully competitive. Our members would welcome access to Union Pacific's car fleet as a hedge against car shortages.

While it may be argued by some that this merger may have negative competitive effects, OKTRUA has concluded that such negative competitive effects will be minimal. Approximately two-thirds of OKTRUA members and OKT shippers currently have no rail alternative to the MKT/OKT. For those shippers, the merger would simply provide a one for one replacement: the UP for the MKT/OKT. This replacement would have the very positive benefits discussed above including single-system service, access to new markets, improved track maintenance and greater equipment supply. For some OKTRUA members and OKT shippers, the merger would reduce the number of rail alternatives available, usually from three carriers to two carriers. While this reduction may be viewed as a negative competitive impact, it could occur even in the absence of the merger by a future MKT/OKT bankruptcy. Even this negative impact, compared with the overall benefit of the merger, is relatively negligible.

Conclusion

In summary, OKTRUA was formed, remains and will remain in existence to insure that rail freight service is continued on the OKT line, with or without this merger. While the Association has been most pleased and satisfied with the service provided by its contract operator, the OKT, the long term benefits of this merger cannot be ignored. Moreover, in addition to being a financially strong and viable rail carrier, the Union Pacific is a well managed and efficient operator. The Association agrees with Union Pacific management that the Union Pacific can provide a quality and level of service that is equal to or better than that provided in the past by the MKT/OKT and that such level of service will be accompanied by the benefits of the OKT line being part of the UP System, including access to new markets and gateways.

OKTRUA management, including both officers and members of the Association Board, have been favorably impressed with Union Pacific's management; management's sensitivity to the concerns of the Association; and management's willingness to adequately address those concerns. Based upon the assurances given by the Union Pacific regarding the quality of service to be provided; the Union Pacific's agreement to obtain Association's consent to any abandonments, which consent will not unreasonably withheld; the Union Pacific's agreement to assume the OKT's financial obligations to Association members under the stand-by loan; and in recognition of the considerable and significant benefits of the transaction, OKTRUA wholeheartedly and unequivocally supports this merger. We sincerely urge the Commission to expeditiously approve this merger as being in the best interests of OKTRUA and the general public.

James K Smith by JSS

James K. Smith,
President,
Oklahoma, Kansas, and Texas Rail
Users Association.

MEMBERS
OKT RAIL USERS ASSOCIATION

Sun Refining & Marketing Co.

The Dolese Co.

Farmland Industries

FAR MAR CO.

Bank of Herington

Herington Chamber of Commerce

Pearl Cooperative Association

Wright Lorenz Grain Co., Inc.

Citizens State Bank of Woodbine

Lincolnville Cooperative Association

Schroeder Grain Co.

Mid Continent Farmers Cooperative

Singer Steel Co.

Miller Grain Co.

Dowell Division of DOW Chemical

Farmers Cooperative Grain Association

Energy Coatings Company

Kingfisher Cooperative Elevator Association

Farmer Grain Co.

North Texas Steel

Union Equity Cooperative Exchange

Elbing Grain Co.

Kansas Crop Service, Inc.

Banner Cooperative Elevator Association

Chickasha Rail Users

Farmers Cooperative Association

C G & F Grain Co.

Ralston Purina Co.

Gifford Hill & Co., Inc.

Calumet Industries, Inc.

Anadarko Rail Users

Halliburton Services, Inc.

Garvey Elevators, Inc.

Garvey International, Inc.

Temple Milling Co.

Allied Mills, Inc.

State National Bank, Marlow, OK

Marlow Farmers Cooperative

Ward & Earnhart

B H & Sons

Mitchell & Mitchell, Inc.

First National Bank, Marlow, OK

Public Service Commission of Oklahoma

First National Bank of Herington

Oklahoma Brick Co.

Apache Farmers Cooperative

Bernard Enterprises, Inc.

First National Bank, Rush Springs, OK

Buck Alley Lumber Co.

General Portland Cement Co.

Farmers Cooperative Exchange

Texas Industries, Inc.

Bunge Corporation

Tosco Corporation

OKT Railroad Company

Apache Rail

RESOLUTION

"BE IT RESOLVED, by the Board of Directors of the Oklahoma, Kansas and Texas Rail Users Association:

"WHEREAS, this Association was formed for the express purpose of restoring rail freight service to shipper members located on the former Chicago, Rock Island and Pacific Railroad Company lines from Salina, Kansas to Dallas-Fort Worth, Texas, after such rail freight service was abandoned by the Rock Island in the bankruptcy of said rail carrier; and

"WHEREAS, this Association, through its members in 1980, provided start-up funds in the approximate amount of three million dollars to the Oklahoma, Kansas and Texas Railroad Company (OKT) and thereby did restore rail freight service to said lines under a lease between the OKT and the Rock Island Trustee.

"WHEREAS, in 1982, this Association did acquire the railroad lines located in the States of Kansas and Texas and the State of Oklahoma did acquire the railroad lines located in that state from the Rock Island Trustee and thereafter caused rail freight service to be again restored on said lines;

"WHEREAS, this Association is contractually bound, under that certain Financing Agreement with the Federal Railroad Administrator, acting on behalf of the Secretary of the Department of Transportation of the United States of America, dated October 21, 1982, to continuously provide rail freight service upon said lines; and

"WHEREAS, this Association entered into an Installment Agreement to sell said line of railroad to the OKT, which Agreement, dated as of October 21, 1982, requires the OKT to continuously provide uninterrupted rail freight service upon said lines; and

"WHEREAS, the Union Pacific Railroad Company (UP) has entered into a Merger Agreement with the Missouri-Kansas-Texas Railroad Company (MKT), the parent corporation of the OKT, to acquire all of the stock of the MKT and, in connection therewith, has agreed to assume any and all obligations of both the MKT and OKT to this Association, including the obligation to provide continuous rail freight service to all shippers on said lines and

"WHEREAS, the UP has requested this Association's active support for the prosecution of its merger application before the Interstate Commerce Commission in order to obtain requisite governmental approval for the merger; and

"WHEREAS, this Association is inclined to favor the merger application, but desires to insure that rail freight service is continued on said lines for all of its members and other shippers.

"BE IT RESOLVED:

1. That the officers of the Association be and they are hereby authorized and directed to communicate to the management of the UP that the Association will actively support the merger, and use its best efforts to ensure that the UP's merger application is approved by the Interstate Commerce Commission provided that the UP agrees with this Association, in writing, not to abandon any rail freight service on the lines of railroad owned by this Association in the States of Kansas and Texas that were acquired from the Rock Island Trustee and conditionally sold to the OKT and the lines of railroad owned by the State of Oklahoma in that state that were acquired from the Rock Island Trustee and leased to the OKT, without the prior written consent of this Association, which consent will not be unreasonably withheld.

2. That said officers also communicate to UP management that this Association will consent to the abandonment of the two line segments identified under the heading Abandonments in the UP's Proposed OKT Operating Plan dated September 11, 1986, provided that rail freight service is continued for Association members at Pearl and Woodbine, Kansas.

3. That, upon approval of the Agreement referred to in Paragraph 1 hereof by this Board of Directors and execution thereof by this Association and the UP, the officers of this Association are hereby authorized and directed (a) to inform the congressional delegations of the States of Kansas, Oklahoma, and Texas of this Association's position; (b) to likewise notify the respective Departments of Transportation, Corporation Commissions or Railroad Commissions, as the case may be, of the various states in which the rail lines are located of this Association's position; and (c) to request that the Federal Railroad Administration permit the abandonments referred to in Paragraph 2 hereof.

4. That this Association again restates and readopts that it is its express purpose to continue to insure that a rail freight service operation is restored and continuously maintained on the lines of railroad acquired by this Association and the State of Oklahoma from the Rock Island Railroad Trustee, between Salina, Kansas

and Dallas-Fort Worth, Texas, and that no abandonments be permitted that would operate to displace or deny any member shippers of this Association rail freight service on said lines.

In addition, I am also enclosing for your information and review copies of initial comments filed with the Interstate Commerce Commission by the following governmental agencies:

1. State Corporation Commission, State of Kansas.

2. State of Kansas -- Secretary of Transportation.

3. Missouri Highway & Transportation Commission.

4. Railroad Commission of Texas.

5. State of Oklahoma, Department of Transportation and Oklahoma Corporation Commission.

6. United States Department of Transportation.

7. United States Department of Agriculture.

8. City of Parsons, Kansas

9. KATY Railroad Employees Association of Parsons, Kansas.

Obviously, the stack of comments that I have received as a result of the merger application is almost one foot thick at this juncture. However, these comments are the ones that I think are the most cogent, at least insofar as the Association is concerned.

Please let me know if you have any questions about these comments or how you would like to handle any communication and/or review of the balance of the comments. Also, I suppose we should set a telephone meeting of the Board of Directors for sometime in late March. If you would like to have me contact both of you by telephone to establish a date, I could give at least two weeks written and telephonic notice to all of the directors to avoid last minute scheduling problems.

Very truly yours,

HAMPTON, ROYCE, ENGLEMAN & NELSON

By Stan

J. Stan Sexton/dk

Enclosures

ATT. 5

DOT-1

BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY-CONTROL-MISSOURI-KANSAS-TEXAS RAILROAD COMPANY	F.D. No. 30800, et al.

PRELIMINARY COMMENTS OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION

ROSALIND A. KNAPP
Deputy General Counsel

DIANE R. LIFF
Assistant General Counsel
for Litigation

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Acting Chief Counsel

MARY BENNETT REED
PAUL SAMUEL SMITH
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Special Counsel
Federal Railroad Administration

400 Seventh Street, S.W.
Washington, D.C. 20590
(202) 366-9285

February 17, 1987

ATT. 5
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BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY-CONTROL-MISSOURI-KANSAS-TEXAS RAILROAD COMPANY	F.D. NO. 30800, et al

PRELIMINARY COMMENTS OF THE
UNITED STATES DEPARTMENT OF TRANSPORTATION

Pursuant to 49 U.S.C. § 11345(b), as amended by Section 228 of the Staggers Rail Act of 1980 (Public Law 96-448), the United States Department of Transportation (DOT or the Department) hereby gives notice of its intent to participate actively in this proceeding.

DOT's interest is based not only on section 11345(b) but also on its statutory responsibilities as the Executive Department of the United States established by Congress "to provide general leadership in ... transportation problems," 1/ to the end that the Secretary of Transportation "shall provide leadership in the development of transportation policies and programs." 2/ The Department also has a creditor interest in the MKT, which we believe will be removed as an element in this proceeding through

1/ 49 U.S.C. § 101(b)(5).

2/ 49 U.S.C. § 301(2).

ongoing negotiations. 3/ The Interstate Commerce Commission (ICC or Commission) in Decision No. 8 in this proceeding, served December 16, 1986, requested the views of interested parties on various issues. Pursuant to this order and the Department's statutory responsibilities, we hereby submit our preliminary comments on the proposed acquisition.

On November 14, 1986, the Union Pacific Corporation (UPC), the Union Pacific Railroad Company (UPRR), the Missouri Pacific Railroad Company (MPRR), and the Missouri-Kansas-Texas Railroad Company (MKT) filed an application pursuant to 49 U.S.C. § 11343 seeking approval of the acquisition of control of MKT and its transportation subsidiaries, by UPRR and MPRR (collectively UP). The Commission accepted this application for consideration in Decision No. 8.

Applicants submit that the proposed merger is in the public interest and should be approved. They contend that the transaction will enhance competition, because it will result in more efficient and lower cost operations and, in particular, will extend the benefits of single-line service to more of the shipping public. Furthermore, they contend that the merger will produce substantial one-time and recurring savings through coordination of facilities, equipment, and operations. Finally, they argue that

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3/ DOT has outstanding $50 million in loans in which MKT has a direct interest -- $25 million each in the Section 505 and Section 511 programs under the Railroad Revitalization and Regulatory Reform Act of 1976. As a result of the Financing Agreements, DOT as a creditor has acquired a right of prior consent to the UP/MKT transaction. If that consent is not obtained, the loans are in default.

only by this merger can MKT shippers continue to receive reliable service at reasonable rates, for MKT is allegedly unlikely to continue to be able to compete successfully as an independent carrier against large railroads in the region.

Various shippers, receivers, public bodies, and affected industry associations have filed both in support of and in opposition to the acquisition. Others, including rail carriers, oppose the transaction as proposed because of its alleged anticompetitive effects and lack of significant public benefits. Several railroads also seek trackage rights or other relief that they deem necessary to correct the merger's competitive deficiencies. They accordingly urge the Commission to deny the application unless the requested conditions are imposed.

The Department does not take a position on the merits of the application, including the necessity for any relief, at this time. The proposed merger presents important issues concerning the structure and the competitive status of the rail industry. Therefore, we believe it essential for the Commission to develop a complete evidentiary record in order to consider the full impacts of the proposal. We intend to participate formally in these proceedings in order to assist in the development of a complete record.

The Commission has also directed all parties to indicate those issues they consider important in this proceeding. DOT believes the following major issues warrant consideration:

1. Whether the merger will reduce competition (including intramodal, intermodal, product and geographic), as reflected in the transportation rates and services likely to be available to the shipping public after the acquisition.

   a. Whether the merger will reduce the level of competition in the markets served by UP and MKT, since the railroads will no longer be independent firms.

   b. Whether the merger will reduce the level of competition, if any, between the applicants and non-included rail carriers.

2. If the merger would significantly reduce competition, whether the anticompetitive effects can be eliminated or mitigated, through changes to the proposal.

3. If the merger would significantly reduce competition, whether this is offset by transportation benefits to the shipping public.

   a. Whether the merger will result in lower transportation costs and/or rates.

   b. Whether the merger will result in improved transportation services.

   c. Whether the merger will result in a more rational and efficient national transportation system.

4. Whether the merger will affect the ability of non-included rail carriers to provide essential services.

Finally, the Commission has directed discovery to commence among the parties. Following a thorough review of the application, the Department will submit requests for information in order to assist us in the development of our position in this proceeding.

In conclusion, the Department hereby intervenes in this proceeding. Please add the following attorneys to the service list established in this docket:

Diane R. Liff, Assistant General Counsel
for Litigation
Mary Bennett Reed, Trial Attorney
Paul Samuel Smith, Trial Attorney
Office of the General Counsel, C-30
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

G. Joseph King, Attorney
Office of the Chief Counsel
Federal Railroad Administration
400 Seventh Street, S.W. RCC-20
Washington, D.C. 20590

Respectfully submitted,

Rosalind A Knapp

Rosalind A. Knapp
Deputy General Counsel

February 17, 1987

<u>CERTIFICATE OF SERVICE</u>

I hereby certify that I have on this seventeenth day of February, 1987, served a copy of the foregoing Preliminary Comments of the United States Department of Transportation by first-class mail, postage prepaid, on the persons specified in the Interstate Commerce Commission's Decision No. 8.

Paul Samuel Smith
PAUL SAMUEL SMITH

February 17, 1987

BEFORE THE

INTERSTATE COMMERCE COMMISSION

Finance Docket No. 30800

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY -- CONTROL -- MISSOURI KANSAS-TEXAS RAILROAD COMPANY

Finance Docket No. 30800 (Sub-No. 1)

NOTICE OF EXEMPT TRANSACTION TO MERGE OKLAHOMA, KANSAS AND TEXAS RAILROAD COMPANY INTO MISSOURI-KANSAS-TEXAS RAILROAD

COMMENTS OF THE

UNITED STATES DEPARTMENT OF AGRICULTURE

U.S. Department of Agriculture
Office of Transportation

Paul E. Kepler, Director
Domestic Division

Room 1405 Auditors Building
Washington, DC 20250

Due Date: February 17, 1987

ATT. 5
3/2/87
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BEFORE THE

INTERSTATE COMMERCE COMMISSION

Finance Docket No. 30800

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY -- CONTROL -- MISSOURI KANSAS-TEXAS RAILROAD COMPANY

Finance Docket No. 30800 (Sub-No. 1)

NOTICE OF EXEMPT TRANSACTION TO MERGE OKLAHOMA, KANSAS AND TEXAS RAILROAD COMPANY INTO MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

These comments are filed by the United States Department of Agriculture (Department) and are in support both of control of the Missouri-Kansas-Texas Railroad Company (MKT) by the Union Pacific Corporation as requested in Finance Docket 30800 and the merger of the Oklahoma, Kansas and Texas Railroad Company (OKKT) into the MKT as requested in Finance Docket 30800 (Sub-No.1). The Secretary represents that he has an interest in these matters and wishes to be considered a party of record, pursuant to 7 U.S.C. 1291.

The Department filed a request on January 27, 1987, with the Interstate Commerce Commission (ICC) for permission to file in this proceeding on or before February 16, 1987. The ICC granted the extension of time on January 30, 1987. Each of the applicants was advised of this extension.

The service provided by the carriers involved in this proceeding is vitally important to the success of American agriculture. During calendar year 1985, the MKT (including the OKKT) handled 23,182 carloads of grain, grain mill products and farm products; the Union Pacific handled 177,946 carloads of such commodities; and the Missouri Pacific (which is part of the Union Pacific Corporation) handled 104,811. Collectively, the loadings of these three carriers represented over 16 percent of the total U.S. carloads of these commodities. The Department is interested in preserving all of the marketing options now available to the involved shippers and in maintaining low cost, reliable rail service.

The Secretary has participated in merger attempts by various railroads in the past only where clearly necessary for the good of agricultural shippers. Mergers have strengthened the financial viability of certain carriers'. The comments we filed in prior merger proceedings supported petitions for trackage rights or the keeping open of various gateways for the continuance of through routes and joint routes to stimulate competition and maintain marketing options.

The Secretary wishes to go on record as being in support of the applicants in these proceedings. According to the applicants' petition, it is very doubtful that the MKT system can survive without this takeover, considering the present competition by five stronger and larger carriers in the highly competitive region it serves. Many of the shippers filing verified statements with the applicants' petition for merger and control attest to the fact that they fear bankruptcy of the MKT System and if that should occur, movement of their commodities in the involved corridors would be seriously impaired.

The Department of Agriculture has contracts with various grain elevators providing services for handling and storing Commodity Credit Corporation owned grain. This contract is known as the Uniform Grain Storage Agreement (UGSA). The MKT exclusively switches some of these elevators whose total capacity is 35.4 million bushels. The OKKT exclusively switches UGSA elevators that have a total capacity of 21.4 million. Both carriers jointly switch, exclusively, elevators with a capacity of 11.1 million bushels located at Fort Worth, Texas. This totals 67.9 million bushels of UGSA grain capacity exclusively switched by the MKT System.

The logical choice of a merger partner for the MKT appears to be the Missouri Pacific Railroad Company (MP). The MP currently has trackage rights over nearly 350 miles of MKT tracks. The MKT, with its recent acquisition of trackage rights between St. Louis and Sedalia, Missouri — Finance Docket No. 30805 -- has rights over a similar amount of tracks of the MP. Continued operations as part of a financially stronger, merged system would permit the present MKT portion of the system to effect a costly upgrading of its lines which is necessary for it to stay competitive. Although some intramodal competition may be lost as a result of the merger, competition in the Kansas/Missouri to Texas corridor would still be provided by the Burlington Northern, Santa Fe, Southern Pacific and the Kansas City Southern rail systems.

Several agricultural firms which own facilities completely dependent on the OKKT for rail services, have filed Verified Statements in support of this merger application. They note that the OKKT, which was part of a rail system which went bankrupt, serves a large part of the territory they draw from for the export of grain moving from the Central Plains to the Texas Coast and the Mexican border. They also cite that another bankruptcy could end the use of this short-line mileage.

Summary

The Department believes that the granting of the above applications would ensure adequate service to agricultural shippers by the involved railroads; reduce carrier costs by allowing the use of combined capital to improve the most efficient routes; and assure shippers, particularly those on the OKKT, that service will not be eliminated as the result of another rail bankruptcy.

Paul E. Kepler

Paul E. Kepler, Director
Domestic Division

CERTIFICATE OF SERVICE

I hereby certify that I have served the original and 10 copies of the foregoing document upon the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and a copy to all parties designated in the Commission's order served February 9, 1987.

Dated at Washington, DC, this 17th day of February 1987.

Paul E. Kepler

Paul E. Kepler, Director
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G. KENT WOODMAN

February 1, 1987

Ms. Noretta R. McGee
Secretary
Interstate Commerce Commission
Room 1324
12th and Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Finance Docket No. 30800
Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company -- Control -- Missouri-Kansas-Texas Railroad Company

Dear Ms. McGee:

Transmitted herewith are an original and 20 copies of the comments filed by the City of Parsons, Kansas concerning the primary application in the referenced docket. Also, submitted are 21 copies of supporting documents including (1) a November 26, 1986 letter to the Honorable William R. Brady from Fred A. Rice, Chief, Research and Analysis, Kansas Department of Human Resources, and (2) a letter from the Parsons Ministerial Association.

Respectfully submitted,

G. Kent Woodman

G. Kent Woodman
for the City of Parsons, Kansas

GKW:eeb

Enclosures

cc w/encls: Individuals identified on the certificate of service

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3/2/87

BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

FINANCE DOCKET NO. 30800

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY -- CONTROL -- MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

COMMENTS OF THE CITY OF PARSONS, KANSAS

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Date: February 1, 1987

BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

FINANCE DOCKET NO. 30800

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY -- CONTROL -- MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

COMMENTS OF THE CITY OF PARSONS, KANSAS

These comments are filed by the City of Parsons, Kansas regarding the application of the Union Pacific Corporation and its railroad subsidiaries ("UP") for approval by the Interstate Commerce Commission ("Commission") of the proposed acquisition and control by UP of the Missouri-Kansas-Texas Railroad Company ("MKT").

The City of Parsons opposes the application in its current form, and wishes to become a party of record in this proceeding pursuant to 49 C.F.R. 1180.4(d)(iv).

Parsons intends to participate formally in this proceeding, and further intends to coordinate its participation with other agencies and communities in the State of Kansas, or other interested parties, that may also participate in the proceeding.

Parsons may seek to discover the intentions of the rail carriers involved regarding rail employment in the Parsons area and rail service and operations in and around Parsons, including proposed routings and traffic flows.

I. INTRODUCTION - BACKGROUND ON PARSONS

One of the most dramatic and immediate effects of the proposed acquisition of the MKT by UP would be the severe economic dislocation visited upon the small City of Parsons as a result of MKT's wholesale withdrawal from the Parsons area.

The City of Parsons is located in Labette County in the far southeastern corner of the State of Kansas. The population of the City is approximately 12,900; the population of the County is approximately 25,700.

Like most towns of its size in Kansas, the economy of Parsons is significantly dependent on agriculture. As a result, Parsons has experienced the same type of economic hardship that has been so devastating to other communities throughout the Midwest and Southwest. This hardship has been exacerbated throughout the State of Kansas by the financial institution crisis, which has witnessed in the past two years 28 banks closed by the Federal Deposit Insurance Corporation ("FDIC") and 3 savings and loans closed or acquired in supervisory acquisitions.[1] These closures have rocked the economic well being of communities throughout the State.

The one feature that has distinguished Parsons from other Kansas communities is that it is now, and has been for nearly a century, a major center of railroad operations. In fact, the City of Parsons was named after the builder of the MKT Railroad. It was the hub city of the MKT Railroad when the MKT

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1. Information supplied by FDIC and Federal Savings and Loan Insurance Corporation.

started operations, and it remains so today. The development of rail service in the Midwest played a vital role in the growth and development of light industry in Parsons. The position of Parsons as a railroad hub has been a dominant force in the economic life of the City since the early 1900's.

Parsons is the home of MKT's system diesel locomotive repair shop, a track maintenance repair shop, a major switching yard, MKT's Northern Division headquarters, a three-track TOFC ramp, and a three-track rip facility.

In addition, Parsons is the major junction for MKT rail traffic moving to and from Kansas City and St. Louis and the Southwest, serving as the junction point for MKT's St. Louis line, Kansas City line, and Neosho subdivision. Parsons Yard receives extensive use for the classification of North-South rail movements.

Current MKT rail employment in Labette County is approximately 400 agreement and non-agreement personnel.

II. THE UP-MKT MERGER PLAN

According to the merger application filed by UP[2], after the consolidation of UP and MKT much of Parsons Yard will be "retired." The following facilities will be closed and sold for salvage: the diesel locomotive repair shop, the track maintenance machine repair shop, the three-track rip facility, the East Yard, and the West Yard. The classification of traffic currently being performed at Parsons will be eliminated or

2. UP Control Application, Volume I, Exhibit 13, p. 62.

handled by other terminals. Parsons role as a gateway for rail and intermodal traffic will be eliminated and its ability to grow and become a major hub for future transcontinental traffic flows will be permanently lost. As discussed in more detail below, the rerouting of train service as proposed by UP will result in a dramatic reduction in the volume of rail traffic through Parsons.[3]

In its estimate of annual savings, UP cites the elimination of 126 employee shifts per week, with a resulting saving of over $2,000,000 annually.[4] In its Labor Impact Exhibit, UP lists 171 jobs to be abolished in the City of Parsons.[5]

To obtain a more accurate assessment of the overall merger impact, it is necessary to look at the estimated job loss in Labette County. There are now about 400 workers employed by the MKT in Labette County. After the consolidation, only 50 would remain in the Parsons area, 100 would have the opportunity to be transferred to positions outside Labette County, and 250 would lose their jobs.

III. THE MERGER'S HARMFUL IMPACT ON PARSONS

It is no sense an over dramatization to assert that the wholesale abandonment of Parsons as a result of this rail merger could be devastating to the community's already troubled

3. See infra, p. 11.
4. UP Control Application, Volume I, Exhibit 13, p. 62.
5. UP Control Application, Volume I, Appendix B, p. 6.

economy.[6] As mentioned, Parsons and many other small Midwestern communities are in precarious financial health due to the perils of the farm economy and the collapse of vital banking and lending institutions.

To begin, it is helpful to look at the unemployment picture in southeastern Kansas. Historically, in any economic downturn, the counties in this part of Kansas have suffered a greater degree of economic hardship than the rest of the State. For example, the 1986 unemployment rate for the 5 southeastern Kansas counties was one and one-half times that of the State as a whole.[7]

The impact of the layoff or transfer of another 350 workers in Labette County would have a significant impact on the unemployment rate. Assuming 85 percent of these workers reside in the County, this single action of one employer -- MKT-- would result in an increase in the county unemployment rate of 2.3 points (from 7.1 percent to 9.4 percent).[8]

The magnitude of job loss is a critical factor in the Commission's consideration of whether the merger is "consistent with the public interest." Section 11344(b)(1)(D) of Title 49, United States Code, specifically requires that the Commission consider the interest of carrier employees affected by the proposed transaction. It is evident that the affected employees, and the Parsons community, would be harmed in a manner that

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6. See attached letter from the Parsons Ministerial Association.
7. Letter to the Honorable William R. Brady from Fred A. Rice, Chief, Research and Analysis, Kansas Department of Human Resources (Nov. 26, 1986) ("Rice Letter").
8. Rice letter, page 2.

greatly outweighs any beneficial aspects of the proposed merger.

As a demonstration of the serious concern of communities in this area, the Cities of Altamont, Chetopa, Oswego, Parsons, and St. Paul, and the County of Labette, have passed resolutions in opposition to the merger. These resolutions state that "the resultant job loss will add to the already high unemployment and will increase the economic hardship of an area already in economic distress" and point out that "the Union Pacific . . . has offered no definite plans to help the area or soften the severe blow to the economy caused by this operating plan."

The Impact On Property Taxes

Perhaps the single most significant impact on the Parsons economy resulting from the merger would be the loss of property tax revenues. To put this loss in perspective, it is important to understand two things: the role of property tax revenues in the budget of Parsons and its ability to provide essential public services, and the amount of those property tax revenues now contributed by taxes on MKT property.

Like most small communities, Parsons' fiscal operations are heavily dependent on property tax revenues. In 1985, for example, Parsons received approximately $1.4 million in property tax revenues out of overall revenues of approximately $4.9 million paid into the public treasury from a variety of sources.[9] Property tax revenues are the single greatest revenue

9. Records of the County Clerk, Labette County, Kansas. The figure of $4.9 million does not include certain water sewage and sanitation revenues.

source for the City's budget, and as such are the primary revenue source for essential public services such as parks, libraries, street repair, trash collection, public facilities, etc.

In 1985, the assessed value of MKT rail property was over $816,000 in Labette County and over $282,000 in the City of Parsons. In that year, MKT paid county and city property taxes on this rail property of more than $112,000.[10]

Removing the shops and other facilities from the county and city tax rolls, particularly given the amount of overall property tax revenues contributed by these rail properties, would have a disastrous impact on the public finances of the City and its continued ability to provide essential services. The City thus would be faced with one of two painful alternatives -- either raise property taxes significantly to make up the shortfall, or curtail the provision of essential public services.

While the impact of this loss of assessed valuation may be softened somewhat if other industrial uses are made of the MKT properties, it is clear that railroad operations are the "highest and best use" of these properties and that alternative facilities could not generate the same level of property taxes.

An ancillary property tax impact would result through the relocation of between 200 and 300 families and the corresponding increase of that many additional residences into the available housing supply. In a small community with economic problems, it simply would not be possible for these residences to be readily absorbed by the market. The inevitable result would

10. Records of the County Clerk, Labette County, Kansas.

be a decline in value and thus in assessed valuation, resulting in reduced contributions of property taxes.

The Impact On Public Schools

Education in the public schools of the Parsons area would be significantly harmed by the proposed merger in two ways. First, the public schools would lose about 150 students who are children of MKT employees. Since the formula for Kansas State financial assistance for public education is based in part on student population, this loss of students translates directly into a loss of education funds from the State.

Second, the Parsons area schools rely on property tax revenues as a primary source of its funding. The decrease in available property tax receipts, as described above, would severely impact the public education system. Again, the only options available to Parsons would be to reduce the level of spending for education, clearly an ill-considered public policy, or to increase the property tax burden borne by remaining taxpayers.

The Ripple Effect On The Local Economy

The most alarming long-term impact of the proposed merger may be one of the hardest to quantify -- that is, the ripple effect throughout the entire local economy that would occur as a result of the loss of railroad jobs and operations. This "silent impact" would not be sudden, but it would be pervasive and perhaps irreversible.

A few facts help illustrate this potential harm. The 400 workers currently employed by MKT in Labette County have a total payroll of approximately $8 million.[11] The loss of 350 of these employees (250 through job loss, 100 through transfer) would result in the loss of approximately $7 million from the local economy each year. This is a reduction of nearly 5 percent of the total wage and salary income in Labette County.[12] In the relatively modest overall economies of Labette County and the City of Parsons, this loss of $7 million is a significant decline in the amount of money circulating in the City and County to purchase goods and services. While a detailed analysis of this impact is beyond the scope of these comments, it is safe to say that this loss of purchasing power would be felt directly by all Parsons commercial enterprises -- supermarkets, drug stores, department stores, restaurants -- that once benefited from the disposable income portion of the $7 million. This becomes, sadly, an almost inevitable downward spiral -- the decline in spending for goods and services means a loss in retail revenues and then a loss of retail jobs, which leads to further loss of consumer spending and possibly a further reduction in home ownership and decline in assessed property values.

Finally, the spinoff impact on the local economy would be exacerbated by the fact that the railroad jobs that would be lost are high-paying, quality jobs. The majority of the salaried railroad workers in Labette County average about $30,000

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11. Rice Letter, p. 2
12. Id. p. 2.

annually, which is nearly twice the county's average annual wage.[13] This job loss would result in the decline in both average wages and per capita income in Labette County. Further, a search of local agency job banks reveals that the only employment opportunities available are at wage levels far below the rail employees' pay, mostly at minimum wages or slightly higher.[14] Therefore, even if the displaced rail employees secure work, their contributions to the overall goods and services economy would be significantly reduced.

As this discussion shows, the proposed UP-MKT merger would deal the City of Parsons a rapid series of blows which would be devastating to the community and its residents. However, that is not the only reason this merger represents poor public policy. In addition, as set forth below, the UP application is seriously flawed under the traditional public interest considerations relied upon by the Commission in its merger analysis.

IX. PUBLIC INTEREST CONSIDERATIONS

Adverse Effect On Competition

Under section 11344(b) of Title 49, United States Code, the Commission is required, in determining if the UP-MKT proposed consolidation is in the public interest, to consider whether the transaction would have an adverse effect on competition among rail carriers in the affected region. The Commission's

13. Rice letter, p. 2.
14. Rice letter, p. 3.

consideration is also governed by the rail transportation policy set forth in 49 U.S.C. 10101a, which seeks to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and other modes, to meet the needs of the public and the national defense.[15] The Commission's Railroad Consolidation Procedures clearly acknowledge that the competitive impacts of a consolidation are "especially critical" in light of the increasing ability of rail carriers to price their services free of regulatory constraints.[16] Accordingly, the Commission should be particularly sensitive to the dimunition of rail services to the City of Parsons, and to the reduction of competition that would result from the proposed combination and attendant abandonments.

UP's application concedes that the MKT system and the UP system are "parallel in significant part, and serve a number of common points".[17] Common traffic corridors include St. Louis and Kansas City south into Oklahoma and Texas. According to the Operating Plan submitted by UP, all MKT traffic using the St. Louis gateway would be rerouted, with traffic destined for Dallas and Ft. Worth, Texas redirected over the UP's route. Traffic destined for Kansas and Oklahoma would be rerouted through Kansas City on existing UP trains.[18] MKT's existing line between St. Louis and Parsons would be abandoned, except for a small segment

15. See 49 C.F.R. §1180.1(b).
16. 49 C.F.R. §1180.1(a).
17. UP Control Application, Volume I, p. 18.
18. UP Control Application, Volume I, Appendix E, Exhibit 13, p. 15.

between North Clinton, Missouri and Fort Scott, Kansas. As a result, the City of Parsons would not have direct service from St. Louis, and would lose a competitive routing option. Parsons would no longer be the junction point for St. Louis and Kansas City traffic. Although MKT's line from Kansas City south would be retained, the operating plan indicates that UP's route to Coffeyville would be the "major" route over which traffic would travel.[19] In addition, the applicants propose to abandon the UP line between Chetopa and Coffeyville, Kansas, cutting off access from Parsons to Coffeyville. Two "non merger related abandonments" would also negatively impact service to Parsons: first, a UP line between Chetopa, Kansas and Nassau Junction, Missouri and a second, an MKT line between Alcolac, Missouri and Machens, Missouri, completing the abandonment of the St. Louis line.[20] Moreover, Burlington Northern has filed for abandonment of its line serving Parsons.

The traffic patterns that would result from the discussed reroutings and abandonments would effectively divert traffic away from the City of Parsons. Traffic from St. Louis would be diverted southwest through Arkansas to Texas circumventing Parsons completely. Remaining southbound traffic would, in large part, be diverted through Kansas City over the UP line, a longer and arguably less efficient route than the MKT's. While some traffic would continue to use the MKT line, a considerable amount would bypass Parsons, leading to its decline

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19. Id., p. 16.
20. See id., Figures 13-3.9 and 13-3.10.

as a significant traffic gateway. The corridors of traffic between Kansas City and St. Louis on the north and Dallas and Ft. Worth to the south would suffer a reduction of competition as a result of this combination. The MKT and UP systems would no longer compete for traffic in these markets. As recognized by the Commission's Railroad Consolidation Procedures, if two carriers serving the same market consolidate, the result is the elimination of competition between the two.[21] This is necessarily the result when a parallel merger occurs. The combined system would be able to exert considerable market power and to control traffic patterns. This elimination of competition is further aggravated by the abandonments proposed which, if granted, would lead to a permanent reduction of competitive rail transportation options for shippers.

Adequacy Of Transportation

This reduction of transportation alternatives for shippers to and from the Parsons area raises a second factor set forth in section 11344(b) of Title 49 that the Commission is required to consider -- the effect of the proposed transaction on the adequacy of transportation service to the public. Although rail service would continue through Parsons, the proposed consolidation would cause public harm to transportation services due to the significant reduction in the level of rail service and the effective closing of the St. Louis market to Parsons rail shippers. More specifically, the proposed consolidation would

21. 49 C.F.R. §1180.1(c)(2)(i).

result in changes in the average system trains per day of -3.1 or -100 percent for the Fort Scott-Parsons line; -3.4 or -43.6 percent on the Paola-Parsons line; and -6.5 or -59.6 percent for the Parsons-Chetopa line.[22]

The resulting loss of service would adversely affect local shippers which rely on rail service to ship their commodities. In its application, UP repeatedly refers to the 375 verified statements of shippers in support of the proposed merger.[23] However, it is significant to note that of these shippers only one shipper in Oswego operates in the Parsons area. This support may be premised on the fact that this particular shipper, unlike other Parsons' shippers, would continue to enjoy direct rail service after the merger from the Burlington Northern.

The proposed abandonments and diversions would certainly limit the transportation alternatives available to several local shippers. For example, the proposed abandonments of the Chetopa to Coffeyville track would leave at least two grain co-ops, the Bartlett Co-op and the Edna Co-op, without any rail service. The applicants would undoubtedly suggest that these shippers would still be afforded the ability to ship by truck. This argument, however, ignores the obvious value to shippers of having a competitive rail alternative and ignores the increased market power that the trucks would enjoy, allowing trucking companies to freely increase rates.

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22. See UP Control Application, Volume 1, Exhibit 13, Table 13-7.1.
23. See UP Control Application, Volume 1, Exhibit 13.

In addition to the general loss of rail service, local Parsons shippers would suffer from the elimination of competitive service to St. Louis. As proposed by UP, St. Louis rail traffic originating in Parsons would be rerouted through Kansas City. The closing of this gateway and rerouting of traffic would sufficiently increase the time involved and decrease the efficiency of Parsons-St. Louis service so as to render rail service between these two cities nonviable and noncompetitive.

The rail transportation policy, required to be considered in merger proceedings, seeks to ensure that the transportation needs of the public and the national defense are met. In addition to the concerns of adequate service to local shippers, the Commission should be aware that an Army Ammunition Plant is one of Parsons' largest rail shippers.

Other Critical Factors

It is particularly difficult to fully assess the competitive impact of the proposed consolidation in light of two factors. The first is the ability of UP to file an application for directly-related abandonments up to four months after filing of the primary application.[24] As a result, further abandonments may be proposed after comments in response to the application are required to be filed with the Commission. This makes it virtually impossible to predict with any certainty traffic flows, diversions, loss of service and overall competitive effects of

24. See UPC -- Control -- MKT, Finance Docket No. 30800, Decision No. 6.

the consolidation on the City of Parsons. If further abandonments are to be proposed, the magnitude of harm on Parsons would increase and the need and justification for protective conditions would likewise grow.

The second factor is the uncertain impact of UP's proposed acquisition of Overnite Transportation Company ("Overnite") on the rail and intermodal transportation market. The Commission has found this proposed acquisition is of "regional and national significance and represents a major market extension by UPC."[25] The Kansas City Southern Railway Company and Louisiana & Arkansas Railway Company ("KCS") raised a very similar issue in its motion that the Commission reject UP's incomplete application as it did not reflect the impact of the reported settlement agreement between UP and the Santa Fe Southern Pacific in the context of the latter's merger proceeding. Although the Commission denied the motion, it expressly recognized the validity of KCS's argument and sought evidence on the potential interrelationship of the two merger proposals, which taken together "would significantly restructure the rail system in the western United States".[26] Similarly, the Commission and affected parties will be unable to determine the impact of UP's proposed acquisition of Overnite on future traffic flows, both rail and intermodal, consolidation of facilities, routing and pertinent competitive issues. The effect on the City

25. UPC and BTMC Corp. - Control - Overnite, Finance Docket No. 31000, Notice of Intent.
26. UPC - Control - MKT, Finance Docket No. 30800, Decision No. 8.

of Parsons is particularly uncertain given the presence of TOFC activities in the Parsons yard, which is practically the only aspect of the yard that would not be eliminated by UP.[27] The abandonment of rail lines and diversion of traffic away from the Parsons area that is proposed to occur in the context of the MKT consolidation would force many local shippers to rely on trucking alternatives. As a result, the effect of the proposed Overnite acquisition on local service and the attendant impacts on shippers are impossible to quantify at this time. To ensure the development of an accurate and complete record in the instant proceeding, the Commission should require that UP present evidence on the interrelationship of the MKT and Overnite acquisitions, including an analysis of their combined competitive impacts. Only when that evidence is developed can the parties fully assess the effects of the related transactions.

V. PROTECTIVE CONDITIONS

The City of Parsons continues to oppose the proposed consolidation of UP and MKT. However, for the above stated reasons, should the Commission decide to approve the proposed merger, the City requests that the Commission impose the following protective conditions:

(1) Require UP-MKT to retain rail service between Parsons and St. Louis, and retain access for Parsons area shippers to Coffeyville; and

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27. See, UP Control Application, Volume I, Appendix E, Exhibit 13, p. 62.

(2) Require UP-MKT to maintain all rail related activities at Parsons Yard including activities at the three subyards.

VI. CONCLUSION

The proposed UP-MKT consolidation would have a severe economic impact on the City of Parsons. Job dislocation, coupled with associated effects on the community's property tax base and the provision of essential public services, would adversely impact an already crippled local economy. Closing the Parsons Yard as proposed by UP in its merger application would not be consistent with sound public policy and would be contrary to the public interest. Although it may be argued that elimination of the Parsons facility is an efficiency produced by the consolidation, any benefits to closing the yard are clearly outweighed by countervailing harm to MKT's employees, a factor which is required to be considered by the Commission in its assessment of anticipated harm to the public interest.

Moreover, the proposed consolidation is anticompetitive and endangers the provision of adequate service to the shipping community and the public. The merger involves parallel and overlapping traffic corridors in which both carriers compete. Diversions would result from the rerouting of traffic, largely over UP lines, causing withdrawal from the Parsons transportation market. While trucks could provide alternate transportation services, they would amass and could exert considerable market power.

The rerouting of traffic and proposed abandonments would jeopardize continued service to the Parsons community. Direct access to St. Louis, Missouri and Coffeyville, Kansas would be cut off, effectively closing competitive routing options and reducing essential transportation services. This loss would be compounded by the uncertainty posed by the acquisition by UP of Overnite, a trucking concern, and the ability of UP to propose even more extensive abandonments during the Commission review process. The inability to assess the complete impact of these two yet unresolved factors demands that UP fully present, and the Commission consider, the combined effects of both proposed acquisitions by UP and attendant service discontinuances. Without adequate information, the parties to this proceeding cannot assess the magnitude of harm of the proposed consolidation, nor can they properly fashion appropriate protective conditions. Fairness dictates that the record be fully developed on these issues.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing comments have been served this 1st day of February 1987, by first class mail, postage prepaid, on the following:

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KANSAS DEPARTMENT OF HUMAN RESOURCES

KDHR

RESEARCH AND ANALYSIS
401 S.W. Topeka Boulovard, Topeka, Kansas 66603-3182
913-296-5058

John Carlin, Governor

Larry E. Wolgast, Secretary

November 26, 1986

The Honorable William R. Brady
Representative District Number Six
87 Parsons Plaza
Parsons, KS 67357

RE: Effect of KATY - U.P. Rail Merger

Dear Mr. Brady:

Following your telephone inquiry of November 20, we have examined data available from this office in an attempt to offer our assessment of such a merger on the Parsons local economy. The facts as provided by your office indicate that about 400 workers are currently employed by the KATY railroad in Labette County with a total payroll of approximately $8 million. The majority of these salaried workers average about $30,000 annually. Further, should the merger occur, of the 400 workers presently employed, 50 would remain in Parsons and 100 would be transferred to positions outside the county.

According to available data, nearly 97 per cent of the jobs in Labette County are held by residents of Labette County itself and four adjacent counties. These five counties in the extreme southeast corner of the state have historically suffered a greater degree of economic hardship than has been typical elsewhere in Kansas. During the first 10 months of 1986, as shown in the table below, these five counties combined have sustained an unemployment rate approximately one and one-half times that of the state as a whole.

Civilian Labor Force
January - October 1986 (Average)

Area	Civilian Labor Force	Employment	Unemployment	Unemployment Rate
Kansas..........	1,229,783	1,161,135	68,648	5.6
Five County Total	65,856	60,422	5,434	8.3
Labette.........	12,394	11,517	877	7.1
Cherokee........	9,740	8,727	1,013	10.4
Crawford........	16,690	15,522	1,168	7.0
Montgomery......	17,113	15,732	1,381	8.1
Neosho..........	9,919	8,924	995	10.0

A loss of 350 jobs and the outright layoffs of 250 workers in Labette County would further aggravate that area's economic situation. A small number of the idled workers could be expected to quickly obtain employment elsewhere or to retire or withdraw from the labor force for other reasons. Most, however, would become unemployed--jobless and looking for work. A layoff of that magnitude would be anticipated to yield, as a direct result, an unemployment count increase of just under 250. Such an increase in jobless number would cause an upturn in the unemployment rate in that five-county area of approximately three-tenths of a percentage point. Labette County itself, of course, would suffer most of the joblessness increase. Approximately 85 per cent of the workers in Labette County reside there; if a similar county residence proportion exists among the workers who would be idled, the jobless count in that county alone could be expected to increase by approximately 200. Such an upswing in the jobless count could be expected to boost the Labette County unemployment rate by two percentage points to approximately nine per cent.

Besides the higher-than-average unemployment, the Labette County economy is also characterized by somewhat lower-than-average wages and income. The 1985 average wage or salary (among employers covered under the Kansas Unemployment Insurance system) stood at $15,194, about 88 per cent of the state average. Similarly, per capita personal income in that area in 1984 was $10,216, about 77 per cent of the state average and ranking 99th among the state's 105 counties. The loss of hundreds of jobs which pay nearly double the county's average wage can be expected to cause further slippage, with respect to Kansas averages, of both wages and per capita income.

Further, the lost income, estimated at $8,000,000, will represent a reduction of approximately five per cent of the total wage and salary income in Labette County. (According to data developed by the U. S. Bureau of Economic Analysis, Labette County total personal income in 1984 was $262,541,000, of which $140,500,000 was wage and salary income.) That loss can be expected to cause further losses in the portion of the area's economy which provides goods and services mainly to the establishments and residents of the local area itself--that is, to the income-dependent part of the local economy. Because, however, the details of economic interdependence and also the degree to which the lost wages might be offset by other compensation are not presently known, the extent of induced downturns in the income-dependent part of the Labette County economy cannot be reliably determined.

Agency job banks were searched as of October 31, 1986 relative to the number and type of unfilled job openings placed with its network of Job Service Centers in southeast Kansas. Included were the offices of Chanute, Coffeyville, Emporia, Independence, Parsons, and Pittsburg. Collectively, 160 openings were on file, indicating a near labor surplus situation. Fully half of these positions were in service and clerical occupations, most at minimum wage or slightly higher levels. One in six were professional or technical in nature requiring either a college education or long-term specialized post-secondary training. Few positions were in those occupational skills deemed suitable for affected workers and certainly not at wage levels currently experienced. Barring the occurrence of unforeseen events, no significant changes in these conditions are forecast for southeast Kansas in the near future.

It is hoped this brief analysis may prove of some assistance. Should you desire clarification of these materials or additional information, do not hesitate to contact us.

Sincerely,

Fred A. Rice

Fred A. Rice, Chief
Research & Analysis

FAR:WHL:csm

PARSONS MINISTERIAL ASSOCIATION
Parsons, Kansas

As ministers of Parsons we are concerned as the Union Pacific Railroad follows through on its intended (proposed) merger with the Missouri-Kansas-Texas Railroad. Our concerns center around the People issues. We understand business decisions have to be made, and that economics are an important part of those decisions. We have nothing against Union Pacific or anyone else making decisions that will be to their advantage and the advantage of their stockholders. However, our voices must be raised when corporations operate in a way which seems to disregard the impact on people.

The disregard for people reflects an unacceptable callousness. It is projected that approximately 350 people will lose their jobs. We think not only of the 350, but also about their families and the overwhelming negative effect on the community. The negative impacts on the families will be: loss of economic security, displacement, pressure on the inner-structure of the family, possible extreme psychological adjustments, and disruption of basic social relationships. The negative impacts on the community will be: a weakening of the economic base, stripping away of the present developed support systems of the community, traumatic re-adjustments in the school systems, churches, and organizations. No company can long succeed which disregards its impact on people.

We believe the unnecessary suffering which would be brought on by the proposed merger to be antithetical to the Judeo-Christian ethic. Therefore, we call upon the Union Pacific and Missouri-Kansas-Texas officials to evidence greater concern for the people, and communities, who will be affected by the proposed merger.

Fr. Paul R. Alderman
David E. Ackerman
Paul R. Hett
John T. Justin
H. David McKellips
Olive Eldridge
Stanley Land

Wayne A. Yost
Norton C. Ritter
Elton P. Garrison

BEFORE THE

INTERSTATE COMMERCE COMMISSION

UNION PACIFIC CORPORATION,	§	
UNION PACIFIC RAILROAD	§	
COMPANY AND MISSOURI PACIFIC	§	FINANCE DOCKET NOS.
RAILROAD COMPANY--CONTROL--	§	30800, ET AL.
MISSOURI-KANSAS-TEXAS	§	
RAILROAD COMPANY, ET AL.	§	

INTERVENTION AND COMMENTS OF KATY RAILROAD EMPLOYEES ASSOCIATION OF PARSONS, KANSAS

Of Counsel:

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1806 Rio Grande
P. O. Box 2207
Austin, Texas 78768-2207

PHILLIP ROBINSON
PAUL D. ANGENEND
JOHN R. WHISENHUNT

For The Corporation

Attorneys for
Katy Railroad Employees
Association of Parsons,
Kansas

Due Date: February 2, 1987

Dated: January 31, 1987

ATT. 5
T & U
3/2/87

COPY

BEFORE THE

INTERSTATE COMMERCE COMMISSION

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY--CONTROL-- MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, ET AL.	§ § § § § §	FINANCE DOCKET NOS. 30800, ET AL.

INTERVENTION AND COMMENTS OF
KATY RAILROAD EMPLOYEES ASSOCIATION
OF PARSONS, KANSAS

Comes now Katy Railroad Employees Association of Parsons, Kansas, and files this, its Intervention and Comments herein, stating as follows:

STATEMENT OF THE PROCEEDING

By application filed November 14, 1986, the Union Pacific Corporation ["UPC"], Union Pacific Railroad Company ["UPRR"], Missouri Pacific Railroad Company ["MPRR"], and Missouri-Kansas-Texas Railroad Company ["MKT"] filed an application under 49 U.S.C. 11343 for approval of the acquisition of control of MKT and its transportation subsidiaries by UPC, a non-carrier holding company, and its indirect wholly-owned rail carrier subsidiaries, UPRR and MPRR [collectively "UP"]. In its Decision No. 8, dated December 12, 1986, the Commission has accepted for consideration the merger application and other related applications and petitions filed in these proceedings.

I.

COMMENTS RESPECTING INTEREST

The Katy Railroad Employees Association of Parsons, Kansas ["Association"], is a relatively small, but expanding group of MKT operating and clerical employees, located in the Parsons, Kansas area. Parsons is the MKT's northern hub of operations, the site of a major classification yard, and the location of the railroad's primary locomotive maintenance shop. UP's plan for its absorption of MKT calls for almost total elimination of railroad operations and maintenance activities at Parsons, and the discharge or transfer from Parsons of almost all of MKT's employees and their families. The fear of loss of employment or transfer from Parsons, as well as the likelihood of a local economic depression if the involved applications and petitions are granted are the principal motivations for the establishment of the Association, and this its requested intervention as a party in these proceedings.

II.

INTRODUCTION

UPC's proposed acquisition of the MKT by UPC appears to be nothing less than an attempt to buy out a small, aggressive competitor that is capable of providing excellent service at competitive rates. UPC's proposal clearly is calculated to move UP closer to its apparent goal of becoming the territorial dominant railroad in the Midwestern area.[1/] Having failed to overcome MKT in the competitive arena, UP now seeks to eliminate competition by submitting an application to the Commission seeking approval to absorb MKT totally into the UPC's wholly-owned subsidiary MPRR.

This conclusion is inevitable after exhaustive examination of the five volume/seven part control application submitted to the Commission by UPC, UP, and MPRR, in association with MKT and Katy Industries, Inc. Nowhere in this voluminous material is there a satisfactory explanation of why an industry giant such as UPC would spend upwards of $500.0 million to acquire MKT, a smaller, but effective competitor. UPC's application makes it clear that MKT virtually will be liquidated through office, shop, and facility closures, track abandonments, property sales, operations discontinuances, and a wholesale discharge of employees. The only motivation for such an enormous expenditure of funds is to buy traffic and the associated revenues that such traffic generates, since UPC, and its operating subsidiaries, clearly failed to secure that traffic and revenues through competition in the marketplace.

1/ Kansas, Missouri, Oklahoma, Texas

Even a cursory examination of Volume I of the control application reveals that UP does not need or want most of MKT's equipment, yards, terminals, shops, offices, and other facilities, or its management, employees, and administrative structure. Moreover, UP doesn't even want or need much of MKT's trackage, since UP intends to abandon over 400 miles of such trackage and relegate a substantial portion of the remainder to secondary or branch line status. Indeed, by agreement with MKT, UP already has favorable trackage rights over the 370 miles of the important trackage that UP actually plans to utilize.

UPC's justifications for the decimation of MKT, and its elimination as a competitor, is provided in Volume III via the Statement of Jerry Davis, UP's Executive Vice President-Operations. In that statement Mr. Davis declares that UP now has a vested interest in those 370 main line miles over which UP has trackage rights, and UP intends to protect that interest by acquisition of MKT.

Thus, the crucial question before the Commission in these proceedings is: Will the Commission allow a small, but effective competitor to be eliminated by industry giant UP just so UP can obtain legal title to 370 miles of line which UP already uses under extremely favorable trackage agreements with MKT, when such a course of action will result in the immediate dismissal of nearly 1,200 employees, and substantial suffering by themselves and their families, and thousands of others in the towns in which they live?

III.

IMPACT ON EMPLOYEES

Volume I of the control application lists all of the employee positions that will be affected by the consolidation of MKT into UP's railroad operation. The initial implementation plan calls for the termination of 1,158 employees, and the transfer of hundreds more from their present assignments to major points on the UP system,[2/] where UP has major offices, shops, yards, and other facilities.

If Commission approval of UPC's proposal is secured, there will be a fairly rapid systemwide dismissal of MKT employees across its system, affecting numerous individuals at St. Louis, Missouri, Sedalia and Kansas City, Kansas, and Dallas, Ft. Worth, Waco, Smithville, San Antonio, Houston, and Galveston, Texas. However, most of the burden will fall on MKT's two "company towns," Denison, Texas and Parsons, Kansas, both of which were founded by MKT's builders, and both of which have been major centers of company activity and employment since the 1870's.

2/ Primarily Coffeyville (Kansas), Omaha (Nebraska), Little Rock (Arkansas), St. Louis (Missouri), DeSoto (Missouri), and Ft. Worth (Texas).

Within a very short time after consummation of the consolidation transaction, over 300 jobs will be abolished at Parsons, and over 500 abolished at Denison. Eventually, almost all jobs at Parsons and Denison will be eliminated, leaving Denison with a few yard and clerical positions, and Parsons with a few clerical positions and road jobs (engineers, conductors, and trainmen). However, there is a very real possibility that a road train will switch the few Denison area customers, leaving just an agent/operator position, and also that the coal and piggyback trains that presently are run via Parsons will be run instead via Coffeyville, leaving Parsons with a token local crew and a single agent/operator.

The Association further is convinced that UP has no intention of maintaining and operating MKT's Paola-Parsons-Wagoner main line as a high-quality secondary line for any substantial length of time after the consolidation takes place, and eventually will relegate such line to branch line status, reaching the G.R.D.A. coal burning power plant at Pryor from a new connection on the far north side of Wagoner, even though such action would add about 40 miles to the Wyoming-Pryor coal train's route. Relocating the proposed daily Dallas-Kansas City piggyback trains and the coal trains to the main line through Coffeyville would eliminate virtually all jobs at Parsons.

The Association's beliefs outlined above are supported by the statements of Mr. Jerry Davis, UP's Executive Vice President-Operations, before a public meeting at Parsons, Kansas on October 29, 1986 (which statements were recorded both by a court stenographer and video-tape). Mr. Davis indicated clearly that UP could not afford to maintain two closely-spaced parallel north-south main lines through Kansas and Oklahoma, and that the MPRR's Paola-Coffeyville-Wagoner line would be the favored line after consolidation of MKT and UP.

IV.

IMPACT ON COMPETITION

In its application, UPC claims that MKT really is not a competitor of UP; and, for that matter, really not much of a competitor of the Santa Fe, Southern Pacific, Burlington Northern, and Kansas City Southern. The implication of UPC's position is that MKT is a worn-out, somewhat primitive, backward company, totally handicapped by a lack of modern technology, and living in the past; in effect, just barely holding on in the day-to-day struggle with progressive rail giants such as UP, which mega rail corporations are gifted with the best of everything from super management to a super physical plant.

In support of its position, UP relies on the data and analysis in Volume III of the control application, Appendix A, which is part of the submission by Richard J. Barber and

Associates, UP's transportation consultants, with data interpretation by Richard D. Spero. In this supporting material, there is a detailed accounting of traffic moving in hundreds of traffic lanes for the ten major commodities that produce approximately 80 percent of the commodity movements in the traffic universe being analyzed. This constitutes all lanes wherein MKT has any significant amount of traffic. The data submitted by UP's own experts refutes two of its most important claims:

1. MKT is not an effective competitor generally.
2. MKT is not engaged with UP in a genuine competitive struggle for volume and market share.

In determining whether MKT is a major competitor of UP, it is of paramount importance to ascertain whether MKT (1) is providing a substantial amount of service in the major involved traffic lanes, and (2) competing successfully for the transportation of commodities representing major revenue opportunities, i.e., commodities moving in large volumes on a multi-car shipment or unit-train basis (such as wheat and feed grains), or valuable commodities moving at higher rates. An examination of the data and analysis submitted by Barber reveals that UP and MKT are the two most important competitors in two of the most lucrative markets--wheat moving from Salina, Kansas to the ports of Houston and Galveston, and merchandise traffic moving by piggyback between St. Louis/-Kansas City on the north and Dallas/Houston on the south.

In the export wheat category, MKT is competing head-to-head with UP. For example, between Salina and Houston/Galveston, MKT has 41.3 percent of the traffic and UP 42.0 percent, while in the Wichita-Ft. Worth traffic lane, MKT is transporting 42.6 percent of the traffic, while UP transports 53.3 percent. Moreover, there are instances where MKT is the dominant competitor, such as in the Salina-Ft. Worth traffic lane, where MKT transports 76.4 percent of the involved traffic versus UP's miniscule 2.0 percent, and the Ft. Worth-Houston/Galveston traffic lane, where MKT's market share is 19.8 percent and UP's is 0.6 percent. These figures indicate that MKT competitively is a very adroit, as well as an effective, competitor of UP. This data is of particular significance when one considers the fact that the Ft. Worth-Houston/Galveston traffic lane is a traffic lane where UP operates over a shorter route than MKT (which is of considerable significance in connection with this relatively short-haul traffic lane).

With regard to the higher revenue merchandise flows via piggyback, there is still more evidence that MKT and UP are locked in a real competitive struggle in the marketplace. This is of particular significance in connection with intermodal service where there is no inherent monopoly power existing as in the carload rail system, wherein the rail carrier with the line serving the shipper and/or receiver directly has a very decided advantage because of car supply and destination delivery scheduling.

In the second highest tonnage traffic lane given for piggyback flows, St. Louis-Dallas, UP's own data indicates that MKT has 45.9 percent of the market, while UP has 41.6 percent. In the Kansas City to Dallas, Houston, and San Antonio traffic lanes, MKT has 71.9, 64.8, and 69.4 percent of the involved traffic, respectively, compared to UP's 4.9, 28.3, and 30.6 percent, respectively. As these amounts show, UP is a poor competitor of MKT from Kansas City to Dallas, and only modest competitor into Houston and San Antonio from Kansas City. While UP characterizes these as being typical examples of how MKT and UP really don't compete in a given market; it is apparent that MKT is an extremely effective competitor of UP, based on UP's own data. It is further undisputed that MKT as an extremely effective competitor of UP will be virtually eliminated if the instant applications and petitions are granted by the Commission.

PRAYER

WHEREFORE, Katy Railroad Employees Association of Parsons, Kansas, prays that the Commission deny the merger application and related applications and petitions filed in these proceedings by UPC, UP, and MKT. In any event, the Association prays that the Commission assign the merger application and related applications and petitions for hearing, allowing the Association the opportunity to present evidence, receive all pleadings and correspondence, and cross-examine witnesses regarding the injury to be suffered by employees of MKT and the public interest considerations necessary to support findings regarding the merger application and the related applications and petitions sought by applicants and petitioner.

Respectfully submitted,

Of Counsel:

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A PROFESSIONAL CORPORATION
1806 Rio Grande
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JOHN R. WHISENHUNT

Attorneys for
Katy Railroad Employees
Association of Parsons,
Kansas

Due Date: February 2, 1987

Dated: January 31, 1987

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Intervention and Comments of Katy Railroad Employees Association of Parsons, Kansas, by Federal Express to Noreta McGee, Secretary, Interstate Commerce Commission, 12th & Constitution, N.W., Washington, DC 20423, and the Rail Section, Office of Proceedings, Room 2144, Interstate Commerce Commission, 12th & Constitution, N.W., Washington, DC 20423, and by First Class United States Mail, on all other parties of record, as listed below.

At Austin, Texas, this 31st day of January, 1987.

John R. Whisenhunt

John R. Whisenhunt

United States Secretary
of Transportation
Interstate Commerce Commission
12th & Constitution, N.W.
Washington, DC 20423

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James V. Dolan
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KANSAS DEPARTMENT OF TRANSPORTATION

DOCKING STATE OFFICE BUILDING — TOPEKA, KANSAS 66612—1568
(913) 296 — 3566

HORACE B. EDWARDS, Secretary of Transportation   MIKE HAYDEN, Governor

OFFICE OF CHIEF COUNSEL

February 16, 1987

<u>EXPRESS MAIL</u>

The Honorable Noreta R. McGee
Secretary
Interstate Commerce Commission
Room 2203
Twelfth Street and Constitution Avenue, N.W.
Washington, D.C. 20423

RE: Finance Docket Nos. 30800,
<u>30800 (Sub-No. 1) et al.</u>

Dear Ms. McGee:

In response to the proposed schedule recommended by Chief Administrative Judge Cross at the February 10, 1987 pre-hearing conference, we sent a telegram addressed to you on February 16. A copy of the text of the telegram is enclosed herein.

By this telegram, the Kansas Department of Transportation has requested that the March 2, 1987 deadline for submitting requests for protective conditions, and the March 17 deadline for "opposition to primary application", be extended until June 8, 1987 at least insofar as state government parties are concerned. The State of Kansas has a new Governor, Mike Hayden, who took office on January 12, 1987. The Governor's designated Secretary of Transportation, Horace B. Edwards, took office on February 2, 1987. Decisions on actions to be taken with regard to the proposed merger of the Union Pacific Corporation and the Missouri-Kansas-Texas Railroad Company were necessarily delayed until Secretary Edwards had an opportunity to be briefed on the matter, which has occurred only within the past ten days.

In previous merger proceedings, (Finance Docket 30000 and 30400) the Kansas Department of Transportation has conducted extensive studies to assess the impacts of the proposed mergers. The State's positions on the proposed mergers have been premised upon the results of such studies. The State has thus had the opportunity, in determining its policy position, to consider a substantial amount of the evidence filed in the proceedings by various parties as well as its own independent analysis.

In Finance Docket 30400, the State's position statement was filed concurrently with its evidence in the case, consisting of a consultant's report detailing the results of the study he had conducted. In the present case, such a procedure would permit state governments to have until June 8, 1987 - the date for filing evidence according to the proposed schedule - to declare its position and to propose any protective conditions that it may find to be needed. The effect of the proposed schedule promulgated on February 10 would be to require government parties -- if they wish to keep their options open pending completion of ongoing studies -- to file statements of opposition by March 17 even if the results of the studies may ultimately be favorable to the merger proposal. Such a result would not be in the best interests of any party.

We request that the comments herein be considered along with our telegram, as this office did not receive notice of the Administrative Law Judge's proposed schedule until today, one day prior to the deadline for comments to be filed.

Very truly yours,

JOHN R. SCHEIRMAN
Staff Attorney

JRS:mc

Enclosure

cc: Hon. Paul S. Cross
All parties of record

KANSAS DEPARTMENT OF TRANSPORTATION

DOCKING STATE OFFICE BUILDING — TOPEKA, KANSAS 66612—1568
(913) 296 — 3566

HORACE B. EDWARDS, Secretary of Transportation
MIKE HAYDEN, Governor

OFFICE OF CHIEF COUNSEL
February 16, 1987

SENT BY WESTERN UNION TELEGRAPH SERVICE, February 16, 1987
To be delivered within one-half hour of the start of business on February 17, 1987.

TO: NORETA R. McGEE, SECRETARY
Interstate Commerce Commission
Washington, D.C. 20423

FROM: OFFICE OF CHIEF COUNSEL
KANSAS DEPARTMENT OF TRANSPORTATION

RE: Finance Docket 30800 STOP Proposed Schedule STOP We request schedule be modified as follows STOP Dates for government parties to request protective conditions or to oppose merger be extended from March 2 and March 17 to June 8, 1987 STOP Purpose for extension is that States positions on these issues may depend on results of studies which cannot be completed by March 17 STOP

JRS:mc

cc: all parties of record by regular mail

KANS-1

BEFORE THE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 30800*

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY
-- CONTROL --
MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

INITIAL COMMENTS OF THE STATE OF KANSAS

Name of Commenting Body:

The State of Kansas, as represented by its Secretary of Transportation

Service of all documents should be made upon:

John R. Scheirman
Office of Chief Counsel
Docking State Office Building, 734-S
Topeka, Kansas 66612-1568
(913) 296-3831

Attorney for the Kansas
Department of Transportation

DATED: JANUARY 30, 1987

*Includes related subdockets

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I. INTRODUCTION

The Secretary of Transportation of the State of Kansas is vested by statute with general authority to coordinate the planning, development and operation of the various modes of transportation within the state (K.S.A. 75-5001). The Secretary's specific powers include the administration of federal funds for the various modes and systems of transportation (K.S.A. 75-5023); establishment and administration of the State Rail Plan, distribution of federal funds for rail service continuation, maintenance of programs of investigation, research, promotion, development and public participation for such purposes (K.S.A. 75-5025); and guaranteeing federal loans for the purchase and rehabilitation of certain railroad facilities (K.S.A. 75-5029, 5030). The Secretary of Transportation is presently representing the State of Kansas in the Finance Docket No. 30400 et al., SANTA FE SOUTHERN PACIFIC CORPORATION - CONTROL - SOUTHERN PACIFIC TRANSPORTATION COMPANY.

The Interstate Commerce Commission's General Policy Statement for Merger or Control of at least two Class I Railroads, 49 CFR 1180.1, states in part as follows:

> (h) Public Participation. To assure a fully developed record on the impacts of a proposed railroad consolidation, the Commission encourages public participation from Federal, State, and local governmental departments and agencies, affected shippers and carriers, and other interested persons.

In Finance Docket No. 30800, Governor Mike Hayden has directed the Secretary of Transportation, acting through his Office of Chief Counsel, to represent the State of Kansas as an interested party.

The State Corporation Commission of the State of Kansas (KCC) has indicated that it will file separate comments in this proceeding. The KCC has experience and expertise in the area of railroad line abandonments. Certain abandonments are proposed by applicants in conjunction with Finance Docket 30800. The Kansas Department of Transportation supports the KCC's request that the proposed abandonments be considered in a separate proceeding. The public interest issues relating to abandonment of railroad lines, particularly as to local impacts, may tend not to receive full consideration in a merger proceeding primarily concerned with interstate and regional issues.

Abandonment-related issues can best be addressed in a separate proceeding pursuant to 49 U.S.C. 10903(a)(2) and 49 C.F.R. 1152, et seq.

II. POSITION OF THE STATE OF KANSAS

Pursuant to 49 CFR 1180.4(d)(1)(iii)(C), the State of Kansas hereby takes an undetermined position on Finance Docket No. 30800 and related subdockets, while reserving the right to amend its position at a later time to support or oppose the applications, and to offer verified statements in support of or opposition to these applications and any other issues that may be raised in these proceedings.

III. STATUS OF THE STATE OF KANSAS IN THE PROCEEDINGS

Pursuant to the Commission's Decision No. 8, served December 16, 1986, the State of Kansas, as represented by the Kansas Secretary of Transportation, hereby goes on record as an active party in these proceedings.

IV. INFORMATION SOUGHT TO BE DISCOVERED FROM APPLICANTS

The State of Kansas is particularly interested in obtaining data which is specific to the merger's impacts within the state, its impacts upon interstate traffic which originates or terminates in the state, and its impacts upon other rail carriers providing service to shippers within the state. Information to be sought from the applicants by the State of Kansas will be specified in a subsequent filing.

V. INITIAL LIST OF PROTECTIVE CONDITIONS SOUGHT

No protective conditions are sought at this time, but the State of Kansas reserves the right to request protective conditions, or to support such conditions as may be sought by other parties, at a later time.

VI. ANALYSIS OF ISSUES THE COMMISSION MUST CONSIDER

(A) One procedural matter which the Commission should initially consider is whether to grant the requests of various state governmental parties to conduct a separate proceeding on the issue of the rail line abandonments proposed by applicants in conjunction with the proposed merger. As discussed in Section I herein, supra, the Commission should grant the request for a separate abandonment proceeding.

(B) The basic standards to be applied in determining whether the proposed merger is in the public interest are well-established as set forth in recent merger decisions including Finance Docket No. 30400, et al., SANTA FE SOUTHERN PACIFIC CORPORATION -- CONTROL -- SOUTHERN PACIFIC TRANSPORTATION COMPANY, (Slip opinion at 12-14) and Finance Docket No. 30000, UNION PACIFIC -- CONTROL -- MISSOURI PACIFIC; WESTERN PACIFIC; 366 I.C.C. 459, 483-87. The criteria to which the greatest weight should be given would appear to be "the effect of the proposed transaction on the adequacy of transportation to the public," 49 U.S.C. 11344(b)(1)(A); and "whether the proposed transaction would have an adverse impact on competition among rail carriers in the affected region," 49 U.S.C. 11344(b)(1)(E).

In applying these criteria to this proposed transaction, the Commission should consider whether the proposed transaction would have a substantially adverse impact, either on the competitive options available to shippers presently served by UPC or MKT, or on the rates and terms of such service. If it finds that substantially adverse impacts would occur, the Commission should then consider whether the proposed merger would offer other public benefits sufficient to outweigh the harm to the public interest.

The State of Kansas has not yet determined how these factors apply to the facts of this proposed transaction. In general, it appears that the proposed merger would produce some positive as well as some negative public impacts. Competitive options available at some locations presently served by both UPC and MKT would be reduced. Rail service would be eliminated entirely on certain lines designated for abandonment. Projected traffic reductions on other line segments suggest the potential for additional abandonments in the future. On the other hand, UPC and MKT shippers would benefit from expanded single-system service opportunities, and potentially could also benefit from the pass-through of some of the financial savings achieved by applicants through merger-related operating efficiencies. Communities presently located on the MKT system, particularly those served exclusively by MKT, may experience enhanced economic development opportunities. Agricultural producers and shippers could similarly benefit from a strengthened MKT system as a result of acquisition by UPC.

The Commission should give particular consideration to MKT's present and future financial condition. If the alternative to merging with UPC is, for MKT, a progressive deterioration of physical plant and competitive position, the long term public impacts of such a development must be considered. If indeed MKT will not be able to continue providing the service it has in the past, the negative impacts on competition and adequacy of transportation that may result from denial of the proposed transaction must be weighed against any negative impacts that would result from denial of the merger. The State of Kansas has experienced the bankruptcy and liquidation of the Chicago, Rock Island and Pacific Railroad. The public interest would not be served by permitting MKT to meet a similar fate. It remains to be determined, in the course of these proceedings, to what extent that likelihood would be presented by a denial of the proposed merger.

In assessing the impacts of the proposed transaction on competition and adequacy of transportation, the State of Kansas will also be concerned with any substantial adverse impacts on the ability of railroads other than UPC and MKT to continue providing service in Kansas.

(C) One additional aspect of the public interest which should be considered by the Commission is the adverse impacts which the merger may cause upon communities within the UPC and MKT service regions. Socioeconomic impacts upon communities, such as unemployment, employee relocation, blight, urban decay and community disintegration, should be included in the analysis of environmental impact pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq. See Jackson County, Mo. v. Jones, 571 F.2d 1004 (1978) Shiffler v. Schlesinger, 548 F.2d 96; City of Rochester v. United States Postal Service, 541 F.2d 967 (1976); Lake Erie Alliance v. United States Army Corps, 486 F.Supp. 707 (1980); Dalsis v. Hills, 424 F.Supp. 784 (1976).

Applicants propose to eliminate 271 job positions at Parsons, Kansas. See Exhibit B, p. 5-6, Railroad Control Application, Vol. 1, MP/KT-9 (Nov. 1986). MKT is presently, and for many years has been a major employer at Parsons. The Commission should consider the socioeconomic impacts of the proposed action on the community of Parsons and the surrounding region. In addition to the environmental impact analysis pursuant to NEPA, this factor should also be considered as one aspect of the broader public interest standard, to determine whether the adverse impacts at Parsons, Kansas would be offset by any long term benefits to communities, or by any other public benefits of the proposed merger See United States v. ICC, 396 U.S. 491, 24 L Ed.2d 700, 90 S.Ct. 708 (1970); Penn-Central and N&W Inclusion cases, 389 U.S. 486, 19 L.Ed.2d 723, 88 S.Ct. 602.

The Commission should also determine whether the benefits of the proposed merger may substantially be achieved without the proposed closing of the shops and yards at Parsons, or whether any practicable means are available for mitigating the negative impacts of such actions.

CONCLUSION

The State of Kansas is one of four states in which rail lines of both the Union Pacific Corporation (UPRR and MPRR) and the Missouri-Kansas-Texas Railroad Company (including its OKT subsidiary) operate. Kansas has been an active participant in previous proceedings which have helped to shape the applicants' rail systems as they are today. The State has a continuing interest in maintaining a financially sound, efficient, competitive and adequate rail system to serve the needs of agriculture, economic development, and the communities within the State which depend upon rail service. As the issues in this proceeding develop, the State of Kansas will seek to determine how these public interests would be affected by the proposed transactions.

Respectfully submitted,

OFFICE OF CHIEF COUNSEL
KANSAS DEPARTMENT OF
TRANSPORTATION

By

JOHN R. SCHEIRMAN
Staff Attorney
Kansas Dept. of Transportation
Docking State Office Building,
734-South
Topeka, Kansas 66612

CERTIFICATE OF SERVICE

I hereby certify that I have this day served by first class mail, postage prepaid, a copy of the foregoing Comments of the State of Kansas on the United States Secretary of Transportation, the Attorney General of the United States, and the applicants' representatives as follows:

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Attorneys for Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company

JOHN R. SCHEIRMAN

January 30, 1987

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Kansas City 64106

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Marceline 64658

MISSOURI
HIGHWAY AND TRANSPORTATION COMMISSION

WAYNE MURI
Chief Engineer

RICH TIEMEYER
Chief Counsel

WALTER F. VANDELICHT
Ass't. Chief Engineer

MARI ANN WINTERS
Secretary

P.O. Box 270
Jefferson City, Missouri 65102
Telephone (314) 751-2551

January 28, 1987

The Honorable Noreta R. McGee
Secretary
Interstate Commerce Commission
12th Street and Constitution Avenue, N.W.
Washington, D.C. 20423

RE: Finance Docket Nos. 30800, 30800 (Sub-No. 1), et al., Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company - Control - Missouri-Kansas-Texas Railroad Company

Dear Secretary McGee:

Enclosed for filing are an original and twenty (20) copies of the Comments of the Missouri Highway and Transportation Department (MHTD-1) pertaining to the above-captioned proceeding.

Please acknowledge receipt by date stamping and returning the extra copy of this letter in the enclosed self-addressed stamped envelope.

Sincerely yours,

Wayne Muri

Wayne Muri
Chief Engineer

Enclosures

cc: ICC - Rail Section
Elizabeth Dole
Edwin Meese, III
William J. McDonald
James V. Dolan
Arthur M. Albin
Parties of Record on Service List of February 10, 1987

ATT. 5
T+U
3/2/87

BEFORE THE

INTERSTATE COMMERCE COMMISSION

FINANCE DOCKET NOS. 30800, 30800 (Sub-No. 1) et al.

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY

AND MISSOURI PACIFIC RAILROAD COMPANY - CONTROL -

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

COMMENTS OF

MISSOURI HIGHWAY AND TRANSPORTATION DEPARTMENT

Wayne Muri, Chief Engineer
Missouri Highway and
Transportation Department
P.O. Box 270
Jefferson City, Missouri 65102
(314) 751-4622

January 28, 1987

BEFORE THE

INTERSTATE COMMERCE COMMISSION

FINANCE DOCKET NOS. 30800, 30800 (Sub-No. 1) *et al.*

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY

AND MISSOURI PACIFIC RAILROAD COMPANY - CONTROL -

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

COMMENTS OF

MISSOURI HIGHWAY AND TRANSPORTATION DEPARTMENT

My name is Wayne Muri, and I am Chief Engineer of the Missouri Highway and Transportation Department (MHTD). MHTD is the state agency responsible for both rail planning and programs in our state. Part of our responsibility is to analyze any proposed railroad merger, consolidation, or acquisition in the state in order to determine its effect upon the citizens of this state.

The proposed merger of the Missouri-Kansas-Texas Railroad Company (MKT) into the Missouri Pacific Railroad Company (MoPac) represents a major development in the restructuring of the midwestern rail network and is therefore extremely vital to the interests of Missouri.

Pursuant to our interests, we offer the following comments:

1. MHTD expresses no opposition to the proposed merger.

2. MHTD is opposed to the merger-related abandonment in Missouri--the MKT line segment between Sedalia, MO and North Clinton, MO, 37.7 miles. We request that this proposed line abandonment be considered separately from the merger in order to allow the communities and shippers affected additional time in assessing the need for continued rail service. Should this merger-related abandonment remain as part of the merger application, we request that the MoPac provide continued rail service over this line for the next five years in order that alternatives for the retention of rail service in this area be established.

3. Inasmuch as the MKT has utilized Local Rail Service Assistance funds in the state of Missouri on the line segment between LaDue, MO and the MO/KS State Line (58.6 miles) for rehabilitation/rail renewal projects, we ask that the ICC impose a protective condition requiring the MoPac to abide by the provisions of the contracts between the state of Missouri and the MKT for the use of these funds.

From the information presented in the merger application, it appears that the overall merger proposal will provide long-term rail service and economic security and planning capabilities for the indefinite future.

We intend to participate formally in these proceedings in order to insure that both the public interest of the state is protected and to further insure that such changes as proposed do not negatively impact or affect essential rail services to the public need and necessity. We wish to be considered as a Party of Record. A copy of this statement will be provided to all "Parties of Record" upon publication of same by the ICC.

MHTD respectfully reserves, and to the extent necessary, requests the right to submit, support or oppose specific protective conditions following submission of all evidence in this proceeding.

Respectfully submitted,

Wayne Muri

Wayne Muri
Chief Engineer

State of Missouri)
)
) ss
)
County of Cole   )

VERIFICATION

Wayne Muri, being first duly sworn on oath, deposes and says that he has read the foregoing statement and knows the contents hereof, and that the same are true to the best of his knowledge, information and belief.

Wayne Muri

Wayne Muri

Subscribed and sworn to before me this 28th day of January, 1987.

A. Marie Ferguson

Notary Public
State of Missouri

A. MARIE FERGUSON
NOTARY PUBLIC, STATE OF MISSOURI
COUNTY OF COLE
My Commission Expires Sept. 21, 1988

CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of January, 1987, served a copy of the foregoing statement by first-class mail, postage prepaid, upon the Interstate Commerce Commission - Office of the Secretary and Rail Section, Secretary of Transportation Elizabeth Dole, Attorney General Edwin Meese III, Union Pacific Corporation - William J. McDonald, Union Pacific Railroad - James V. Dolan, Missouri-Kansas-Texas Railroad Company - Arthur M. Albin, and will serve a copy to all "Parties of Record" as listed on the service list to be issued by the ICC by February 10, 1987.

Wayne Muri

Wayne Muri

BEFORE THE

INTERSTATE COMMERCE COMMISSION

Union Pacific Corporation, Union Pacific Railroad Company
and Missouri Pacific Railroad Company

-Control-

Missouri-Kansas-Texas Railroad Company

Finance Docket Nos. 30800 and 30800
(Sub-Nos.1-5); Decision No. 8

WRITTEN COMMENTS OF THE
RAILROAD COMMISSION OF TEXAS

Michael A. James
Acting Director
Transportation Division

Mark E. Foster
Attorney for Respondent
Railroad Commission of Texas
1701 North Congress Avenue
William B. Travis Building
P. O. Drawer 12967, Capitol Station
Austin, Texas 78711
(512) 463-7315

Dated: January 30, 1987

ATT. 5
T+U
3/2/87

Comes now the Railroad Commission of Texas (RCT) and files these written comments before the Interstate Commerce Commission (ICC or Commission) pursuant to the Notice issued at 51 Fed. Reg. 45190 wherein the ICC announced it had accepted for filing the application for Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company to control Missouri-Kansas-Texas Railroad Company and related applications. The RCT files these written comments pursuant to the Notice and 49 C.F.R. §1180.4(d)(1). and shows the following:

I. DOCKET NUMBER AND TITLE

Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company

-Control-

Missouri-Kansas-Texas Railroad Company

Finance Docket Nos. 30800 and

30800 (Sub-Nos. 1-5); Decision No. 8

II. COMMENTING PARTY

A. Name and Address:

Railroad Commission of Texas

Mailing Address:

P. O. Drawer 12967

Capitol Station

Austin, Texas 78711

(512) 463-7315

Location:

1710 North Congress

William B. Travis Bldg.

Austin, Texas 78701

B. Representative: Mark E. Foster, Attorney

C. Capacity: The RCT is the state administrative agency which regulates railroads within the State of Texas pursuant to TEX. REV. CIV. STAT. ANN., art. 6444 et seq. The RCT is also the state agency designated by the Governor of Texas responsible for the rail planning program established in accordance with the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210) and the Local Rail Service Assistance Act of 1978 (P.L. 95-607).

III. POSITION

As authorized by 49 C.F.R. §1180.4(d)(1)(iii)(c) the position of the Railroad Commission of Texas is undetermined.

IV. PARTICIPATION

The Railroad Commission of Texas intends to participate formally in the above-referenced proceeding by filing written comments at this time and by participating in the evidentiary hearings to be held at a later date.

V. INFORMATION REQUESTED FROM APPLICANTS

A. Provide the RCT with information stating the effect of the involved merger on the Denton subdivision which runs between Denton, Texas and Deny yard in Dallas, Texas.

B. Provide the RCT with answers to the questions on the attached Appendix A.

VI. INITIAL PROTECTIVE CONDITIONS

A. Ensure that local Texas commodities including the cities of Denison, Waco, and Garland, will not be adversely affected as a result of the proposed merger.

B. Ensure that the effects of the merger to Texas shippers and other rail carriers are not anti-competitive.

C. Ensure that Texas branch lines are not abandoned in this proceeding.

D. Ensure that adequate safety measures are taken to protect the public.

E. Ensure that no adverse environmental impacts will result from increased rail traffic over line segments.

VII. ANALYSIS OF ISSUES

At 49 C.F.R. §1180.1(a), the Interstate Commerce Commission declared that it encourages private industry initiative that leads to the rationalization of the nation's rail facilities and reduction of its excess capacity. One means of accomplishing these ends is rail consolidation. The ICC further stated that it does not favor consolidations that substantially reduce the transportation alternatives available to shippers unless there are substantial, demonstrable benefits from the transaction that cannot be achieved in a less anti-competitive fashion.

The Commission should be guided by the rail transportation policies set out at 49 U.S.C. §10101a, including:

> (4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

> (5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;
> (12) to encourage fair wages and safe and suitable working conditions in the railroad industry; and
> (13) to prohibit predatory pricing and practices, to avoid undue concentrations of market power and to prohibit unlawful discrimination.

A rail carrier's statutory duties run not to shippers alone, but to the public. Akron, Canton & Youngstown R. Co. v. I.C.C., 611 F.2d 1162, cert. den'd 449 U.S. 830. At 49 C.F.R. §1180.1(c), the Commission established regulations that define the procedure the Commission will use in determining whether a transaction is in the public interest. The regulations declare that the ICC will use a balancing test, weighing the potential benefits to the applicants and the public against the potential harm to the public. The potential harm that the proposed merger could cause to the public, especially local communities with substantial ties to the M-K-T Railroad, should be ascertained and scrutinized to determine if the proposal would, in fact, be in the public's interest.

VIII. PRAYER

Wherefore, the Railroad Commission of Texas prays:

1. That it be admitted as a party of record to this proceeding,
2. That it be provided the discovery requested herein, and
3. That the requested protective conditions be granted.

Respectfully submitted,

Mark E Foster

Mark E. Foster
Attorney for Respondent
Railroad Commission of Texas
P.O. Drawer 12967-Capitol Station

APPENDIX A

Discovery Questions

1. Are the applicants fully aware of the maintenance and contingent interest requirements of the FRA-funded, state-administered 803 grant rehabilitation programs in which the MKT has participated?

2. If the UP acquisition of the MKT is denied, what provisions has the MKT made to repay the $11.6 million loan obtained from the Missouri Pacific Railroad Company?

3. For each location or track segment where the UP has trackage rights over the MKT or where the MKT has trackage rights over the UP provide the terms of reimbursement which the tenant gives to the owner.

4. For each location or track segment where the UP has performed track improvements to MKT track, what are the terms of the MKT's reimbursement to the UP?

5. Provide a list of the one hundred biggest shippers on the MKT system and for each shipper provide the types of commodities shipped or received and the total number of carloads of each commodity type.

6. In Spero's comments at page 14, he states that, in 1983, 82% of all crushed stone shipments in Texas moved by truck. In 1985, that percentage amounted to 86%. Provide the length of haul distribution via truck and via rail.

BEFORE THE
INTERSTATE COMMERCE COMMISSION

Finance Docket Nos. 30400, et al.

SANTA FE SOUTHERN PACIFIC CORPORATION
--CONTROL--
SOUTHERN PACIFIC TRANSPORTATION COMPANY;
--MERGER--
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
AND SOUTHERN PACIFIC TRANSPORTATION COMPANY

RAILROAD COMMISSION, STATE OF TEXAS STATEMENT
IN SUPPORT OF OPENING THE RECORD

The Railroad Commission of Texas (RCT) is on record in this proceeding in support of the primary applications subject to the ICC granting certain protective conditions which would mitigate anti-competitive and public safety concerns. Since the ICC decided on October 10, 1986, to deny the primary applications, the SFSP has negotiated agreements aimed at reducing the anti-competitive effects of the proposed merger.

The RCT requests that the ICC re-open the proceedings in order to evaluate the agreements and to determine the effects of those agreements on the merger's anti-competitive aspects. The RCT believes that re-opening the proceedings at this time would clearly serve the public interest.

Respectfully Submitted,

Mark E Foster

Mark Foster
Attorney for Respondent
Railroad Commission of Texas
P. O. Drawer 12967
Capitol Station
Austin, Texas 78711

CERTIFICATION OF SERVICE

I hereby certify that on this 3rd day of ~~January,~~ February 1987, I have served by first class mail, postage prepaid, upon all parties of record in this proceeding, a copy of the foregoing Statement in Support of Reopening the Record.

Mark E Foster

Mark Foster

RAILROAD COMMISSION OF TEXAS

TRANSPORTATION DIVISION

MACK WALLACE, Chairman
JAMES E. (JIM) NUGENT, Commissioner
JOHN SHARP, Commissioner

THE STATE OF TEXAS

MICHAEL A. JAMES
Acting Director

1701 N. CONGRESS — CAPITOL STATION — P. O. DRAWER 12967 — AUSTIN, TEXAS 78711-2967

February 5, 1987

Ms. Noreta R. McGee, Secretary
Case Control Branch
Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Washington, D.C. 20423

RE: Finance Docket Nos. 30800 and 30800
(Sub-Nos. 1-5); Decision No. 8

Dear Ms. McGee:

An error had been found in the Written Comments of the Railroad Commission of Texas submitted by cover letter dated January 30, 1987. On page four, Condition A, the word "commodities" should have been "communities." I enclose the original and 20 copies of a revised page four which I ask to be substituted for the erroneous page in the original filing.

Your cooperation and courtesy is greatly appreciated.

Very truly yours,

Mark E Foster

Mark E. Foster

MEF/fhb
Enclosures
cc: Rail Section, ICC
William J. McDonald
James V. Dolan
Arthur M. Albin

VI. INITIAL PROTECTIVE CONDITIONS

A. Ensure that local Texas communities including the cities of Denison, Waco, and Garland, will not be adversely affected as a result of the proposed merger.

B. Ensure that the effects of the merger to Texas shippers and other rail carriers are not anti-competitive.

C. Ensure that Texas branch lines are not abandoned in this proceeding.

D. Ensure that adequate safety measures are taken to protect the public.

E. Ensure that no adverse environmental impacts will result from increased rail traffic over line segments.

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At 49 C.F.R. §1180.1(a), the Interstate Commerce Commission declared that it encourages private industry initiative that leads to the rationalization of the nation's rail facilities and reduction of its excess capacity. One means of accomplishing these ends is rail consolidation. The ICC further stated that it does not favor consolidations that substantially reduce the transportation alternatives available to shippers unless there are substantial, demonstrable benefits from the transaction that cannot be achieved in a less anti-competitive fashion.

The Commission should be guided by the rail transportation policies set out at 49 U.S.C. §10101a, including:

> (4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

Before the
INTERSTATE COMMERCE COMMISSION
Washington, D.C. 20423

Finance Docket No. 30800

UNION PACIFIC CORP., AND UNION PACIFIC RAILROAD CO. AND
MISSOURI PACIFIC RAILROAD CO., -- CONTROL, MISSOURI - KANSAS - TEXAS RAILROAD CO.,

---

Finance Docket No. 30800 (Sub-No. 1)

NOTICE OF EXEMPT TRANSACTION TO MERGE
OKLAHOMA, KANSAS and TEXAS RAILROAD COMPANY INTO MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

COMMENTS OF

STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION
AND
OKLAHOMA CORPORATION COMMISSION

OKLAHOMA CORPORATION COMMISSION

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Oklahoma Corporation Commission
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OKLAHOMA DEPARTMENT OF TRANSPORTATION

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Oklahoma Department of Transportation
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(405) 521-2631

OF COUNSEL:

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Rubin, Quinn, Moss
1800 Penn Mutual Tower
510 Walnut Street
Philadelphia, Pennsylvania 19106
(215) 925-8300

Dated: January 30, 1987
Due Date: February 1, 1987

ATT. 5
TY U
3/2/87

Before the
INTERSTATE COMMERCE COMMISSION
Washington, D.C. 20423

Finance Docket No. 30800

UNION PACIFIC CORP., AND UNION PACIFIC RAILROAD
CO. AND
MISSOURI PACIFIC RAILROAD CO., -- CONTROL, MISSOURI -
KANSAS - TEXAS RAILROAD CO.,

Finance Docket No. 30800 (Sub-No. 1)

NOTICE OF EXEMPT TRANSACTION TO MERGE
OKLAHOMA, KANSAS and TEXAS RAILROAD COMPANY INTO MISSOURI-KANSAS-TEXAS
RAILROAD COMPANY

COMMENTS OF

STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION
AND
OKLAHOMA CORPORATION COMMISSION

Name and Address of Commenting Party:

Oklahoma Department of Transportation
200 N.E. 21st Street
Oklahoma City, Oklahoma 73105

Oklahoma Corporation Commission
460 Jim Thorpe Office Building
Oklahoma City, Oklahoma 73105

Name and Address of Representatives Upon Whom Service Should be Made:

V. O. Bradley, Director
Oklahoma Department of Transportation
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Oklahoma Corporation Commission
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1800 Penn Mutual Tower
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Philadelphia, Pennsylvania 19106
(215) 925-8300

The following constitutes the combined written comments of the Oklahoma Corporation Commission ("OCC") and the Oklahoma Department of Transportation ("ODOT"), both agencies of the State of Oklahoma. OCC is vested by the Constitution of the State of Oklahoma, as well as by statutory law, as having original jurisdiction on all regulatory railroad matters in this State. ODOT has been designated by the Governor of Oklahoma as the single non-regulatory agency to deal with rail issues in the public interest.

The State of Oklahoma (at times herein, the "State" or "Oklahoma") desires to become a party to and participate in this proceeding and therefore files the following comments in accordance with the Commission's decision herein served December 12, 1986.

The State's position in this proceeding is undetermined at this time; however, the State may be inclined to support the control and other authority requested by Applicants subject to the development of a record which is sufficient to assure the State that the benefits of the proposed control outweigh any negative impacts.

As the following facts disclose, the State has a substantial interest in the proposed transaction which derives from the extensive mileage operated by Applicants in Oklahoma and the major financial and other support provided by the State to facilitate the continued operation of one of the most important line segments operated by MKT.

(1) The Applicants, Union Pacific Corporation ("UP"), Missouri Pacific Railroad Company ("MP") and Missouri-Kansas-Texas Railroad Company ("MKT") and MKT's subsidiary, Oklahoma-Kansas-Texas Railroad Company ("OKT"), operate 1,369 miles of railroad in the State of Oklahoma, which represents about one-third of the total rail miles in the State. The rail lines operated by the Applicants serve substantial portions of the State. The two principal North-South main lines of the Applicants' lines located respectively east and west of Oklahoma City form a large "H" when connected with MKT's route between the two routes via Oklahoma City. Applicants propose:

(a) the largest single abandonment related to the merger within the State of Oklahoma.

(b) significant reductions in employment within the State and immediate tributary areas in Kansas and Texas, and

(c) more merger related revenue gains from traffic associated with the commerce of Oklahoma than from any other state served by the Applicants.

(2) Since the demise of the Chicago Rock Island and Pacific Railroad Company (Rock Island), Oklahoma has invested $35.4 million in public funds in a concerted effort to maintain a viable railroad system within the State. The largest single benefactor of the State's financial outlays has been the MKT and its subsidiary, OKT. These funds were expended to preserve and strengthen OKT's rail operations and thereby to provide public benefits. Specifically, the State purchased from the Rock Island, for lease and operation by OKT, the properties which now form the 350.9 mile Oklahoma portion of the OKT system and cooperated with MKT in the formation of its OKT subsidiary; and supported the formation of, and worked closely with, the related shipper group that provided OKT with working capital.

In addition, the State has purchased from MKT its 61.0 mile Burkburnett, Texas to Altus, Oklahoma branch line and has rehabilitated the line for continued operation by MKT under lease from the State. Most recently, the State has acquired the 69.6 mile former Rock Island line between McAlester and Howe, Oklahoma, for lease and operation by MKT. As a result of these various lease agreements, the MKT/OKT operates 481.5 miles of State owned railroad properties.

(3) On October 4, 1982, the State entered into a lease-purchase and operating agreement with OKT for the leasing and eventual purchase by OKT of 350.9 miles of rail line formerly owned and operated by the Rock Island. Under the terms of the Agreement, the OKT agreed to pay the State rent over thirty (30) years. Subject to payment of all aggregate rental, the State has agreed to sell to OKT the properties leased. OKT agreed to rehabilitate and maintain the railroad in accordance with the terms of the Agreement. In addition to purchasing the Rock Island properties and leasing them to OKT, the State has also expended substantial sums for the upgrading and maintenance of the OKT properties.

State believes that the rental and purchase terms accorded OKT are at a level significantly below that which would be justified in light of the benefits derived by OKT. State was nevertheless willing to accord these terms to OKT in view of its status as a newly acquired subsidiary of MKT, a railroad then in marginal financial condition.

As a result of this purchase and rehabilitation investment, the State is the owner of a critically important portion of the Applicants' proposed rail system; therefore, the State will seek assurances that its financial interests and public investment objectives in supporting continued operation of OKT will be met by Applicants should the application be approved by the Commission. Although the State does not have more specific protective conditions to propose at this time to provide such assurances, the State may propose such conditions at the time for filing final proposed protective conditions.

(4) The application indicates the OKT route structure, of which the 350.9 mile Oklahoma portion is owned by the State of Oklahoma, is of critical importance to the merged system. An analysis of the traffic density changes on the lines of the Applicants reveals that virtually all large changes in ton-miles proposed will occur on the OKT. The main line of the OKT between Wichita, Kansas and Chico, Texas via Enid and El Reno Oklahoma, will have its ton-miles per mile increased an average of 110 percent (110%) over the base year 1985. While this 325 mile route segment will not carry the magnitude of gross tons per mile as the MKT/UP line combination through eastern Oklahoma, it does represent a significant improvement for the State in the utilization of its properties. Moreover, the Applicants express the intent to extend the length of six passing tracks within Oklahoma to improve the capacity of the line.

(5) The Applicants plan substantial service changes affecting customers in Oklahoma, the majority of which represent improvements to the shipping

public. Specifically, the Applicants intend to improve the service to Oklahoma City and along the OKT route structure. The specific service changes will be enhanced by increased single line service opportunities through the expanded route system of the Applicants.

(6) The Applicants intend to make substantial capital expenditures within the State, upgrading specifically the MKT main line between Muskogee and Durant, a proposed expenditure of $36.4 million, and make other capital improvements to consolidate the main line routes of MKT and UP between the Kansas and Texas borders via McAlester, Oklahoma.

(7) In 1982, Oklahoma purchased from the Missouri-Kansas-Texas Railroad its line between the Texas-Oklahoma border near Burkburnett, Texas and Altus, Oklahoma, a distance of sixty-one (61) miles. At significant cost, the State subsequently rehabilitated the line and leased it to the MKT for operation. MKT now operates the line without subsidy under a thirty (30) year term agreement dated March 31, 1982. The assignment of this agreement by MKT to UP may require the prior written consent of the State.

(8) On May 29, 1986, the State entered into a Track Lease and Operating Agreement with MKT which permits MKT to operate between McAlester and Howe, Oklahoma (69.6 miles) over State owned railroad properties formerly owned by the Rock Island. This Agreement provides MKT with an option to purchase the line upon payment of an agreed price with rent applying in full towards the purchase price. MKT is required to undertake certain

track rehabilitation projects to be paid for through a forgiveness of rent by the State up to a stipulated amount. This line of railroad gives MKT a direct connection with the Kansas City Southern at Howe, Oklahoma. Because the Applicants' operating plan is silent as to their plans relative to this line, the State may seek protective conditions to assure the terms of the Lease and Operating Agreement will be fulfilled by the Applicants after merger.

(9) The Applicants propose system wide job impacts of $37.5 million in eliminated wages affecting 1,158 positions. Another 571 positions will be transferred. While the number of positions eliminated in Oklahoma is only 4.6% of the total, 22% of the job transfers will occur within the State. The State will be undertaking an evaluation of these impacts at the local level as several of the affected communities have small employment bases currently affected by the economic and job dislocations caused by the decline in agricultural and petroleum related activities. Some of these locations are in areas of significant expenditures by the State in rail properties and line rehabilitation investments. Oklahoma will state its position related to employment issues during the proceeding.

(10) The single largest merger related line abandonment proposed by the Applicants lies entirely within Oklahoma. The Applicants propose to abandon the present UP (formerly Missouri Pacific) main line between Muskogee and Durant, Oklahoma, a distance of 169.4 miles. State has not had an opportunity to review the effects of this abandonment, but expects that all abandonments will be subject to separate proceedings. The State's

position related to this abandonment will be made known when all the facts are developed.

For the foregoing reasons, the State of Oklahoma intends to participate in this proceeding and requests that it be added to the service list as a party to the proceeding.

Respectfully submitted,

OKLAHOMA DEPARTMENT OF TRANSPORTATION

Director

OKLAHOMA CORPORATION COMMISSION

James B Townsend

Chairman

CERTIFICATE OF SERVICE

I, William P. Quinn, do hereby certify that on this day I have served a copy of the foregoing Comments of State of Oklahoma Department of Transportation by first class mail upon the following:

U.S. Department of Transportation
Docket Clerk, Office of Chief Counsel
Federal Railroad Administration
Room 5101
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Washington, DC 20590

Attorney General of the United States
Constitution Avenue and 10th Street, N.W.
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Missouri-Kansas-Texas Railroad Company
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This 30th day of January, 1987.

WILLIAM P. QUINN

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LCRA

952-LCRA
3 155-U-34 (LCRA)
155-U-34 (LCRA-BN)
155-61-34 (LCRA-CNW)

WESTERN COAL

Page 2 Issue No. 568

LCRA MAY BUY SHARE OF MINE TO SETTLE LAWSUIT

The LOWER COLORADO RIVER AUTHORITY, Austin, TX, has authorized the sale of $167 million in bonds to pay for a 40% share of a Wyoming mine as a means of settling a $1 billion lawsuit.

The suit involves LCRA and DECKER COAL CO., Omaha. LCRA and the City of Austin signed a contract with Decker in 1974 to buy 2 million t/y of coal until 2003 from Decker's mine complex in Big Horn County, MT.

The coal, purchased for the Fayette Power Project, La Grange, TX, originally cost $11/ton. When the price rose in 1985 to $30/ton--$25/ton more than coal that could be bought on the spot market--Austin and LCRA cancelled the contract on the grounds of coal overcharges.

Decker called for resumption of the contract or $1 billion in damages. A federal district court judge has set a trial date for January 1987.

However, over the past several months LCRA has been involved in settlement talks with Decker's parent companies, NERCO and PETER KIEWIT SONS.

Those talks resulted in a deal which would have LCRA purchase a 40% stake in Nerco's new Antelope mine, Converse County, WY. Nerco would mine the coal for use at Fayette and would share the profits with Kiewit, Austin, and LCRA. Further, as a Wyoming mine, Antelope is not subject to Montana's 30% coal severance tax.

An LCRA spokesman said the utility is evaluating the mine property.

FS FD ote & 3wOP. Ruth 9/16

LCRA STUDIES CHEAPER RAIL ROUTE FOR FAYETTE

The LOWER COLORADO RIVER AUTHORITY, Austin, TX, has hired BECHTEL CIVIL, an engineering firm, to determine if there is a cheaper way to deliver coal to the Fayette Power Project than by the MISSOURI KANSAS TEXAS RAILROAD.

The plans are part of LCRA's decision to create competition between fuel suppliers and deliverers.

Bechtel will provide both a cost estimate and a possible route for a spur line to Fayette from rails owned by the SOUTHERN PACIFIC RAILROAD. The City of Austin, LCRA's partner in the Fayette Power Project, will bear half the cost of the $95,000 study.

At present, MKT has the only lines running to the two Fayette plants east of La Grange, TX. The lines carry about four million t/y of coal to Fayette.

MKT's contract for deliveries to Fayette ends in March 1987. LCRA reported that transportation costs for coal delivered by rail from Wyoming and Montana account for 80% of the fuel's total cost.

PRELIMINARY PERMITTING, ENGINEERING BEGINS ON THOUSAND SPRINGS

Preliminary environmental permitting and engineering have begun for SIERRA PACIFIC RESOURCES' 2,000-MW energy park proposed for Elko County, NV (WC 554, 6/3/86).

The $4 billion park, called Thousand Springs, will consist eventually of four 250-MW, coal-fired units. Power from the project will be sold wholesale to western utilities.

However, a spokesman for the Reno, NV, utility said no generating units will be built until contracts have been signed with the utilities that will purchase the power.

By mid-1988, he said, the company expects to have final word on permitting and approvals. Sierra hopes to begin constructing one unit every two years beginning in 1990.

The project is expected to consume six million t/y of coal when it reaches full capacity. A company official said earlier that the coal would probably come from Utah and Wyoming.

ATT. 6
T+U 3/2/87

MARKET REPORT - Continued from Page 1

The Board of Directors of the SAN MIGUEL POWER ASSOCIATION, Christine, TX, has voted to cancel a contract with COLORADO-UTE ELECTRIC ASSOCIATION INC., Montrose, CO, and retain coal lands north of Nucla, CO.

In what it considered a move to ensure its future coal supply, Colorado-Ute purchased the 200 acres of land and coal leases from SMPA for $165,000 in 1984 (WC 443, 4/19/84). Colorado Ute officials said the coal would be burned in a circulating fluidized bed combustion boiler planned for its Nucla generating station.

A new appraisal by SMPA estimates 793,499 tons of recoverable coal on the lands and evaluates the property at $218,000, $53,000 more than the 1984 sale price. A SMPA spokesman said the association would be foolish to sell the coal at the older price.

The coal is subleased to PEABODY COAL CO., St. Louis, which has operated the Nucla mine there. The mine was closed in 1983 when its only customer, the Nucla power plant, was shut down for the conversion.

The plant is expected to begin producing electricity in the fall of 1987, burning about 400,000 t/y of coal. The old plant burned around 60,000 t/y from the Nucla mine.

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A spokesman for COLOWYO COAL CO., Meeker, CO, has denied a rumor that the company may sign a separate 10-year coal contract with CENTRAL POWER & LIGHT, Corpus Christi, TX.

The company currently supplies the utility's Coleto Creek station with about 1.5 million t/y under a contract that expires in 1994.

A Colorado newspaper reported recently that the company may soon sign a contract that would call for approximately 1 million t/y of coal to be delivered to Coleto Creek.

Although no new contract is in the works, the spokesman said Colowyo is discussing with CP&L the possibility of extending the present contract and changing the volume of coal.

CP&L announced recently that it is planning to make a spot purchase of 200,000-350,000 tons of coal for Coleto Creek (WC 543, 3/18/86).

Reported delivered costs in December to Coleto Creek were 283.1¢/MBtu ($60.20/ton) for 125,000 tons of 10,633 Btu/lb., 0.37% sulfur and 5% ash coal from Colowyo.

LCRA TO STUDY FEASIBILITY OF RAIL SPUR

The LOWER COLORADO RIVER AUTHORITY, Austin, TX, plans to do a feasibility study on the construction of a rail spur into its Fayette #1 and #2 power stations.

The LCRA currently takes about 4 million t/y of coal from Wyoming's Powder River Basin over the MISSOURI-KANSAS-TEXAS, the only direct rail line into the Fayette plant. LCRA officials hope that the proposed spur might lower the cost of transporting the fuel by allowing access to the plant by competitors.

The closest line to the Fayette plant that could compete with the MKT is owned by SOUTHERN PACIFIC, according to LCRA officials.

While the LCRA has another year to go on its contract with MKT, agency officials say they are disappointed with the continued high cost of transporting coal from the west to central Texas.

Fayette currently receives coal under contracts with CARTER MINING CO. from its Rawhide mine, Campbell County, WY, and ANACONDA MINERALS from its Black Thunder mine, Campbell County, WY.

4/8/86

NEW MEXICO OFFICIALS QUESTION BLM ON VALUE OF COAL LAND FOR EXCHANGE

New Mexico Gov. Toney Anaya is asking the federal Bureau of Land Management to rework its figures on the value of an exchange of 145-million tons of federal coal for private coal lands owned by Cerrillos Land Co.

While praising BLM's proposed land exchange as an environmentally sound and economically attractive package, Anaya is worried that the federal government may be undervaluing its own coal holdings. And since the state is paid royalties from coal mined on federal lands—and no royalties on coal from private lands—Anaya wants to be sure the federal government obtains coal of equal value in the swap.

The proposed agreement involves the exchange of mineral rights on BLM's coal holdings in northwestern New Mexico north of Grants for land held by Cerrillos. Both the federal land and the properties owned by Cerrillos, a subsidiary of the Santa Fe Southern Pacific Corp., have sections "checkerboarded" with those of the other. The BLM exchange would block out several solid coal mining tracts for both the federal government and Cerrillos.

In a recent letter to BLM, Anaya says his staff can't complete its economic analysis of the proposed exchange until BLM does a better job of estimating the relative values of the properties. The resources that would be given up by BLM, Anaya says, "could exceed the value of the resources being given in return, by more than the federal 25% limit."

BLM's economic analysis doesn't appropriately measure the values of the properties and it doesn't "appear to be consistent with the agency's own appraisal guidelines or its coal appraisal practices elsewhere," Anaya says. BLM also failed to consider and apply a "fair market value" test in its analysis, he adds.

The BLM analysis assessed only the current value to each current owner of the properties, Anaya says. That method of valuation short-changes both the federal and state governments, he adds. BLM needs to revise its calculations by figuring in the incremental increase in economic value that will result from the exchange and account for the improved efficiency of blocked-out land holdings, Anaya says.

INTERMOUNTAIN POWER BUYS US FUEL RESERVES; SETS PRICE, TONNAGE CUT

In a recent financial transaction, the Intermountain Power Agency paid $28-million to United States Fuel for about 35-million tons of coal reserves and received a sales price reduction from the coal company, one of four suppliers to the 1,500-mw Intermountain Power Project nearing completion in central Utah.

The agency, owner of the IPP station, would not disclose the amount of the price cut granted by US Fuel. Along with the price reduction, IPA's tonnage commitment with US Fuel was cut back, but neither party would say by how much. The plant will use 4-million t/y to be delivered from coal mines in Emery and Carbon counties.

IPA said it has no immediate plans for the reserves purchased from US Fuel. The deposits are adjacent to the Mohrland mine, one of two US Fuel mines that will be supplying coal under contract. The first 750-mw unit is scheduled to begin commercial operation this summer and the second unit a year later.

LCRA, CITY OF AUSTIN AWARD UP/MKT CONTRACT, BUT DISAPPOINTED WITH BIDS

The Lower Colorado River Authority and the city of Austin TX have agreed to a coal-haul contract that they expect will save $2.8-million next year on the shipment of 4-million t/y of coal from the Powder River Basin to the Fayette Power Project in central Texas.

The joint owners of the Fayette project accepted the $21.11/t rate joint bid by the Western Railroad Properties, Union Pacific and the Missouri-Kansas-Texas railroads. The joint bid was accepted over the bid of $21.75/t bid by Burlington Northern and MKT.

LCRA officials expressed disappointment over the bids, which they expected to be lower, and announced plans to study the feasibility of building a spur line to the Fayette project as a way of lowering the bid for delivery of the coal by the MKT. Austin and LCRA officials, when asking for bids, set a ceiling price of $19.31/t for the shipments. BN/MKT responded with a Section 22 proposal, allowing for escalation of the bid price; the WRP/UP/MKT low bid was fixed. Both bids were below last year's bid prices of $21.94/t from BN/MKT and $21.83/t from WRP/UP/MKT.

LCRA General Manager S. David Freeman said he was "frankly disappointed that they (the bids) weren't lower," adding that he felt there was "still some fat" in the rates. Freeman said that the lack of competition with MKT at the end of the system was going to receive attention from LCRA. Freeman said the agency plans to study the construction of a spur from a Southern Pacific line as a way to provide the MKT with competition. "We intend to pursue that option to the fullest," Freeman said.

GOVERNMENT

PENNSYLVANIA LEGISLATOR ENTERS COGEN FRAY TO ALLEVIATE LOOMING POWER GLUT

Pennsylvania State Sen. Jim Rhodes has entered a dispute between Pennsylvania Power & Light and approximately two dozen cogeneration developers who are facing a glut of cogeneration capacity.

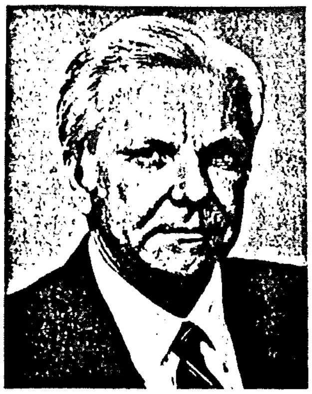
Rhodes, a Republican whose district covers part of Pennsylvania's anthracite area, is concerned that the utility and developers will not come to terms on cogeneration contracts and that his area will be the loser, both economically and environmentally. The developers, who are negotiating with the utility, plan to fuel their plants with waste anthracite.

PP&L has warned that it isn't capable of handling more than 300 mw of cogenerated power in its northern tier—which is the anthracite area (3/10 *Coal Week*). Anthracite cogeneration developers have proposed projects totaling about 1,600 mw. In a recent letter to the developers, PP&L said its lines don't have the capacity to handle the load. The letter added that PP&L is giving cogeneration developers and small power load producers a deadline of July to secure financing for their projects, according to Rhodes.

US Coal Production Estimates

From incomplete reports, Dept. of Energy estimates US coal production tonnage. Corresponding figures are actual. Tonnage in millions.

Period	Pennsylvania Anthracite	Bituminous (includes lignite)
Week ended Mar. 22, 1986	0.073	17.623
Corresponding 1985	0.080	18.786
Cumulative 1986	0.815	197.662
Corresponding 1985	0.812	194.432



A.M. Henson

FROM THE SUPER-INTENDENT

As 1986 comes to a close, I want to review some of the highlights of this year, as I think we have come a long way and have accomplished most of the goals that we had established at the beginning of the year. We set some pretty rigid goals in the areas of safety, cost control, production, equipment utilization and service. In the area of safety, which includes employee injuries and train accidents, we have achieved 98.5% of our goal. We have met our goal in total incidents, reportable incidents and in train accidents; however, we are slightly under goal in lost day cases and lost days.

In the area of cost control, we have accomplished 99.2% of our goal and fall short in one category which is overtime in one department. We have accomplished 100% of our production goals which include the installation of cross ties, new and secondhand rail, and surfacing. We have also accomplished 100% of our equipment utilization and service goals. While I am a little bit disappointed that we have not reached 100% in safety and cost efficiency, we still have turned in a pretty good performance thus far and one that we can all be proud of and feel that each of us had a part in achieving.

We began our Voluntary Separation Programs in 1986 and through November, 162 employees on the San Antonio Division have availed themselves of these programs. These break down by craft as follows: Enginemen = 46; furloughed trainmen = 63; clerical = 49; officers = 2; train dispatchers = 2. While these programs are winding down for this year, at this time it is not known whether or not they will be reinstituted in 1987. What we do know is that we must continue to find ways through our cooperative efforts to reduce surplus employees with the least impact on those affected. I am sure that satisfactory agreements can be reached to accomplish this.

We undertook a rules recertification program this year and offered rules instruction classes through some of our employees to assist you in preparation to take recertification examination. I am happy to report that our instructors did a good job, as was evident by the very small number of employees who had to take the exam a second time before making a passing grade. The large majority of those who took the recertification exam passed with a high score.

We recently conducted our annual division audit and rule knowledge, both of operating and safety rules, had considerably improved over last year; and, in fact, this was the best audit that we have ever had. We did find some deficiencies and these will be addressed in an effort to elevate rule knowledge to its highest level.

We recently completed negotiations and reached an agreement with the organizations that will permit operation of a new coal train between Fort Worth and Colorado River Generating Plan near LaGrange, with a reduced crew consist and utilization of a single crew between Fort Worth and the Plant.

Your *Crosstie* Editor, Mr. Bill Neill, attended the Association of Railway Communicators Convention and received the Distinguished Achievement Award for the San Antonio Division *Crosstie*. This is one of the highest honors that can be bestowed upon an employee publication. I extend my heartiest congratulations to Mr. Neill and staff on the fine job that they have done in producing *The Crosstie* particularly since most of their work is accomplished in so called "spare time." They worked hard and deserve an expression of thanks from each of us.

In addition to the *Crosstie* they are again publishing a 1987 San Antonio Division calendar, which will be available for distribution during the month of December. Based on what I have seen so far, we can proudly display this calendar and it would fit well as a keepsake for railroad memorabilia.

One of the most unexpected events which occurred in 1986 was the Interstate Commerce Commission's 4-1 decision on July 24, denying the Southern Pacific-Santa Fe railroad merger. It was totally unexpected; however, by the time you read this article, we will have filed with the Commission, evidence supporting our request to reopen the case for reconsideration. The final resolution of the merger is not known at this time; however, regardless of the final decision, we still have a strong transportation company which we must run and be competitive with the trucks and other railroads, both in service and cost. We must continue to find ways to become more efficient and further reduce our costs so that we can compete for our share of the nation's transportation. We have already begun to establish goals for 1987, and even though I am proud of our performance in 1986, we can continue to make improvements through our cooperative efforts.

I want to take this opportunity to thank each and every one of you for your cooperation and your performance which has so greatly contributed to the success which we have had in 1986. I am looking forward to an even better 1987 and earnestly solicit your continued support and cooperation. May you and your families have a joyous and happy holiday season.

GRDA 155-61-31 (6-7A-8A) Co: 1103 (DA)

[Bouquets] and a laurel for OSM

[E]nvironmentalist testimony before Congress on the Office of Surface Mining budget included several criticisms and one note of praise.

In comments before the House Appropriations subcommittee on the Interior Dept., Jim Lyon of the Environmental Policy Institute praised the agency's proposal to use money collected from civil penalties to reclaim mine sites abandoned during the interim program — the time between the passage of the strip mine law in 1977 and the states' assumption of regulatory authority.

However, Lyon found much fault with OSM's budget. He characterized OSM as "a very troubled agency" and said he saw evidence of lack of reclamation on a recent tour of eastern Kentucky coal fields.

FS FD Note, Grdp. Rep 2/10/87

Lyon blasted the use of abandoned mine land funds to fund pay raises and retirement costs. He criticized the proposed abolition of the rural abandoned mine land program, and OSM's computerization program.

The environmentalist urged the panel to tell OSM to set up a program to audit tipple records to prevent coal mined at illegal or wildcat mines from reaching the market.

Lyon said his proposals would not require additional funds for the agency.

GRDA okays rail pact

Grand River Dam Authority has signed a contract with Burlington Northern railroad for long-term delivery of coal from the Wyoming Powder River Basin to its power plant near Pryor, Okla.

According to the Chouteau, Okla., utility, rates under the new BN contract will save its customer in excess of $275 million over the life of the contract, whose expiration date was not disclosed. Also, the BN pact will not require GRDA to take the current higher annual minimum tonnage it must take under its short-term transportation arrangements.

GRDA receives coal from Exxon Coal U.S.A. and Mobil Oil.

Meanwhile, GRDA awarded a contract to Benham Holway Power Group for initial design and engineering work on an industrial rail spur it plans to build connecting the plant directly to BN trackage.

GRDA says the work it awarded on its planned rail spur should take four to five weeks to complete and cost about $22,000.

Completion date for the spur now is set for Oct. 1, 1988.

Shippers introduce rail antitrust bill

The long-awaited fight in the 100th Congress to give captive coal shippers relief from excessive rail rates has begun with the introduction of a bill that would amend certain antitrust laws.

The new bill is much simpler than its predecessor, known as the "Railroad Antimonopoly Act," which failed to get reported out of a House Energy & Commerce subcommittee favorably last year. The bill is known as H.R. 941 in the House and S. 443 in the Senate.

According to Rep. Mike Synar, D-Okla., sponsor of the bill in the House, the bill would do two things:

➤It will repeal the Keogh doctrine created by a 1922 Supreme Court case, which prevents a private party from obtaining damages against a railroad in an antitrust suit; and

➤It repeals a provision of the Clayton Act that prevents a private party from obtaining injunctive relief against a railroad.

"Let me emphasize: This bill does not single out the railroads for any different treatment than that given every other American industry, regulated or not," Synar said at a press conference Tuesday. "It simply gives captive shippers access to the courts when they are charged with discriminatory rates."

New bill less complex

Backers of the bill, including Western Fuels Assn., W.R. Grace & Co., the American Public Power Assn., several other shipper concerns and 21 co-sponsors in the House, say the new version will not be as complex as the old anti-monopoly measure. And because of the issues it addresses, the bill will be the sole jurisdiction of the House Judiciary Committee, which last year reported the measure out favorably.

Several congressmen last year during an Energy & Commerce subcommittee hearing charged that the antimonopoly act would have created dual regulation of the railroads by the courts and the Interstate Commerce Commission. Rep. James Florio, D-N.J., contended that the bill — which would have placed the burden of proof on the railroads instead of shippers — advocated changing basic definitions adopted by the ICC to determine rate reasonableness.

Rep. Norman Lent, R-N.Y., during the same hearing also commented the old bill's focus was on rail rate regulation as opposed to anti-monopoly. And, Rep. W.J. Tauzin, D-La., criticized the measure as trying to twist the antitrust laws by circumventing ICC authority.

One of the major provisions of the old bill would have allowed trackage rights to railroads wishing to compete for business on lines owned by another railroad. The railroad industry contended this amounted to the taking of property without due process.

Bill would remove antitrust law shield

Sen. Dennis DeConcini, D-Ariz., who is sponsoring the bill in the Senate, says the measure will "fill a gap in the antitrust laws that currently allows railroads to overcharge and underserve 'captive shippers' with virtual impunity."

DeConcini asserted that under current law, railroads are not subject to ICC regulation in certain key areas, but continue to be exempt from important provision of the antitrust laws. The new bill, if passed into law, would simply require railroads to be subject to all antitrust laws other businesses in the nation abide by.

"Some have suggested that this legislation should be opposed because it would subject railroads to the dual regulation of the ICC and the federal courts," Synar said. "This argument fails to recognize that virtually all other regulated industries are covered by the antitrust laws."

ATT. 6 T+U 3/2/87

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CC: 1103-GRDA

WESTERN COAL

Page 2

Issue No. 588

AIR QUALITY COUNCIL KNOCKS PSCO COAL-OVER-GAS PREFERENCE

The PUBLIC SERVICE OF COLORADO's recent renegotiation of long-term coal contracts with CYPRUS COAL CO., Englewood, CO (WC/578, 11/18/86), has come under fire from the state's Metropolitan Air Quality Council.

The council maintained that PSCO emissions contribute to 44% of Denver's infamous brown pollution cloud and that a seasonal or full-time switch to natural gas would reduce pollution.

Except for a brief switch November 15 to January 15, the utility has refused to convert to gas, maintaining that conversion would have negative implications for coal contracts.

A utility spokesman defended the decision to continue with coal on the grounds that natural gas costs twice as much to burn. Meanwhile, the utility expects next month preliminary results of a study on the role of natural gas in reducing area pollution.

Until that time, trying to guess the utility's future plans for pollution control is premature, he said.

The air quality council reported that it will meet next month to reconsider regulations requiring the utility to switch to natural gas.

YES FD Note & Pwob Reg 1/30

OKLAHOMA UTILITIES SIGN NEW RAIL PACTS

Officials of the GRAND RIVER DAM AUTHORITY, Vinata, OK, say they expect a new long-term contract with BURLINGTON NORTHERN to save utility customers up to $275 million in transportation charges.

The contract provides for an industrial spur to be built connecting GRDA plants near Chouteau, OK, with BN tracks for delivery of Wyoming coal. GRDA's Chouteau complex is supplied under long-term contracts with EXXON's Rawhide mine, Campbell County, WY, and MOBIL's Caballo Rojo mine, also Campbell County.

Reported delivered cost in October to GRDA's Chouteau complex was 141.0¢/MBtu ($23.19/ton) for 101,500 tons of 8,225 Btu/lb., 0.32% sulfur, 5% ash coal from Rawhide and 132.2¢/MBtu ($21.94/ton) for 56,100 tons of 8,300 Btu/lb., 0.39% sulfur, 5% ash coal from Caballo Rojo.

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Meanwhile, UNION PACIFIC and BURLINGTON NORTHERN have signed a joint contract with the PUBLIC SERVICE OF OKLAHOMA to deliver Wyoming coal to the utility's Northeastern plant, Oologah, OK.

Shipments will originate on BN from the Powder River Basin mines; UP will complete delivery from Kansas City to the plant.

Under long-term contract, Northeastern is supplied with coal from KERR-MCGEE's Jacobs Ranch and Clovis mines, both in Campbell County, WY.

Reported delivered cost in October to the utility was 188.6¢/MBtu ($32.41/ton) for 56,000 tons of 8,594 Btu/lb., 0.45% sulfur, 7% ash coal from Jacobs Ranch and 188.6¢/MBtu ($30.22/ton) for 55,000 tons of 8,012 Btu/lb., 0.42% sulfur, 6% ash coal from Clovis.

ROCKEFELLER SEEKS PARTIES IN PRB COAL EXPLORATION

Laurance S. Rockefeller is inviting all interested parties to participate in an exploration for coal on unleased federal land in the Powder River Basin, the Bureau of Land Management reported.

The pro rata cost-sharing exploration will cover some 320 acres in Sheridan County, WY. Interested parties must send written notice to the BLM office in Cheyenne and Laurance S. Rockefeller at Rockefeller Plaza, NY.

H. I. Dimmerman:
FYI: article from Tulsa Tribune 1/22/87 as info -
HBMusgrove 1/23/87

cys: GJE/RLT
RWH

Claremore, Okla

TULSA TRIBUNE 1-22-87

GRDA's status stirring concern

By JOSEPH E. HOWELL
Tribune Writer

CHOUTEAU — The Grand River Dam Authority's largest customer wants Gov. Henry Bellmon and GRDA officials to get their stories about GRDA's financial condition together.

"I am sick and tired of the governor's office saying one thing and GRDA something else," Dean Sanger, general manager of KAMO Electric Cooperative, told the GRDA board Wednesday.

Sanger said he plans to call a meeting of other GRDA customers — the tentative date is Jan. 30 — and ask representatives of Bellmon's office and GRDA to attend.

In his message to the Legislature Tuesday, Bellmon said, "We must establish an advisory committee and seek an independent external analysis of the tenuous financial condition of the GRDA.

"THE CREDIT worthiness of the state is at stake.

"Should the GRDA default on its debt service, Oklahoma's standing in the financial markets would be badly damaged or the Legislature would need to appropriate funds to avoid this eventuality."

Bellmon said he does not think there is an immediate prospect of the GRDA defaulting on its debt of more than $1 billion, but proposed spending $250,000 on a study of GRDA to be conducted under the supervision of Attorney General Robert Henry.

There was no immediate response from GRDA officials.

Instead, the GRDA board Wednesday continued to pursue its major objectives — cutting the cost of bringing in low sulfur content coal from Wyoming by rail, and refinancing GRDA's debt so no increase in the electric rates GRDA charges customers will be needed for four years.

A contract with Burlington Northern Railroad was signed which GRDA said will save its customers $275 million over the life of the contract.

DETAILS OF the contract were not made public, but a news release said a spur will be built from the BN lines to the GRDA coal-fired generating plants near here.

Such a spur would bypass the Katy railroad on which the plants are located.

In a further effort to persuade the Katy to lower rates it charges GRDA fo. hauling the Wyoming coal from the BN lines to Chouteau, a $22,000 contract was awarded Benham-Holway Power Group for the initial design and engineering work on the proposed spur.

The work is expected to be completed in four to five weeks and the projected completion date for the spur is set for Oct. 1, 1988, the release said.

After a closed-door session called to discuss litigation, the board voted to pay a lawyer to defend Glen Michael, former chairman, who has been named defendant along with GRDA in a $40 million damage suit the Katy has filed against GRDA, claiming GRDA showed Katy's bid for coal hauling to BN.

Donaldson, Lufkin & Jenrette Securities Corp., a New York firm, was selected as an independent adviser to review GRDA plans to sell a refinancing bond issue which would stretch out its debt payment schedule.

THE MANAGEMENT group of underwriters chosen to manage the sale was expanded from four firms to eight.

Five firms were added — First Boston, Shearson Lehman, E.F.Hutton, Rotan Mosle, and Bauscher Pierce — and one — Leo Oppenheim & Co. — was dropped.

Michael resigned from the GRDA board when it was disclosed he heads a company which is owned by the same firm that owns Oppenheim. He said he did not want any suggestion of a conflict of interest to affect sale of the bonds.

Bellmon had made the selection of an independent adviser and restructuring of the management team conditions under which he would consider approving the bond issue, which he opposes, if it won the approval of the independent adviser.

William H. Langley Jr., a Stilwell businessman who has been vice chairman for the past year, was promoted to chairman, and Billy Mac Thomison, general manager of the Indian Electric Cooperative at Cleveland, a GRDA customer, was named vice chairman.

AWH

TULSA TRIBUNE 1-21-87

H. T. Dimmerman:
As info + confirming our wire date -
HBMusgrove
1-22-87

Cy: GJE/RLT
RWH

External study praises GRDA electric service

BULLETIN

CHOUTEAU — The Grand River Dam Authority announced today it has signed a long-term contract with the Burlington Northern Railroad which it estimates will save GRDA customers in excess of $275 million in rail transportation charges over the life of the contract. Under the agreement, GRDA said in a press release, an industrial spur is to be built which will connect the GRDA power plants near Chouteau with the Burlington Northern tracks. The contract covers the transportation of coal from Wyoming.

By JOSEPH E. HOWELL
Tribune Writer

CHOUTEAU — The Grand River Dam Authority was given high marks today on its ability to provide customers reliable, safe and relatively inexpensive electric service in a management study submitted to GRDA by Arthur Young & Co. utilities consultants.

The study, which a team of Arthur Young consultants began in September, did not address the question of GRDA's financial condition raised by Gov. Henry Bellmon in his message to the Legislature Tuesday.

It said, however, as an overall assessment, "GRDA has produced bottom-line results that are enviable."

"Evidence of strong performance is found in GRDA's cost of delivered coal, operating and maintenance expenses, generating plant availability and forced outage performance and rates."

Bellmon has proposed a $250,000 "independent analysis of the tenuous financial condition of the GRDA" to be conducted under the guidance of the attorney general.

GRDA directors said they did not have enough information to respond to the proposal, but Tipton Simmons Jr. of bond underwriters Smith Barney said Bellmon's concern about the utility's credit worthiness are "wrong." He pointed out GRDA bonds have been rated suitable

See GRDA, page 2D

for investment purposes.

A summary of the study presented by John D. Dornblaser, spokesman for the Arthur Young group, said "this study was commissioned by the board to identify weaknesses so solutions can be developed.

"We went looking for problems. This report is primarily a 'to do' list, rather than a 'have done' list," Dornblaser said.

He said the study was prepared by a team of consultants from Arthur Young's Tulsa office and the firm's national utilities group.

A table of average costs of coal which GRDA uses as fuel at its large thermal generating plants shows that in this area only Kansas City Power and Light has a lower figure.

Comparative costs per million British Thermal Units shown in the study were 125.4 for the Kansas City firm, compared to 140 for GRDA and an average in the area of 163.9.

Figures for other firms were: GRDA costs ranged between 4 and 5 mills, the study said. It put the GRDA cost at 7 mills in 1986 and forecast a cost of 9 mills for 1987.

The study showed the availability for use of GRDA's No. 1 coal-fired unit was above the industry average from the time it was placed in operation in 1982 until it was shut down for a major overhaul last year. It was out of service for several months.

The study showed also that in terms of forced outage, GRDA has been below the industry average the past five years and in two years — 1984 and 1985 — was far below the industry average, less than 2 percent at a time when the industry average has ranged from 7 to 8 percent.

The study said GRDA has the lowest rates for industrial customers of any of nine utilities in Kansas, Arkansas and Oklahoma and next to the lowest for municipal and electric cooperative customers.

Empire District Electric was below GRDA in municipal and cooperative rates.

According to Arthur Young, the GRDA industrial rates were 35 percent below the average for utilities in the area. Municipal rates were 30 percent below the average and cooperative rates were 28 percent below.

Dornblaser said GRDA has undergone a significant change in five years, switching from a purchaser of electricity to a producer with the addition of its two large coal-fired plants.

He said it has been a transition from a power-purchaser-hydro-generator to a primarly coal-fired power generator. Generating capacity has tripled and staffing has doubled. He said it is because of this rapid change so many things need to be done.

The list of recommendations for improvement was broken into four categories: roles, policies and practices of board and staff; operational and financial planning, management information needs and operational improvements.

Dornblaser said GRDA needs firmly to establish who is responsible for what and needs to develop a formal plan for maintaining good relations with customers, lake users and employees. The study calls for assigning to the personnel department coordinating, monitoring, facilitating and documenting GRDA hiring, termination and promotion practices.

Dornblaser said GRDA has taken a good step in this direction with the appointment of G.W. "Bill" Kannegiesser as assistant general manager for human resources.

The study calls for GRDA to establish a system planning and load forecasting group, to formalize its load forecasting process, centralize responsibility for fuels management, formalize coal re-

TULSA TRIBUNE

CC: 155-31-31 (GRDA
155-31-31 (GRDA-AN)

GRDA takes step toward rail line

By JOSEPH E. HOWELL
Tribune Writer

CHOUTEAU — The Grand River Dam Authority has taken the first step in its plan to build 20 miles of railroad between Claremore and its plant east of here.

GRDA directors voted Wednesday to instruct Western Fuels Association Inc. of Washington, D.C., to begin negotiations with the railroads with which the GRDA rail line will connect.

These are the Burlington Northern, the Union Pacific, and the Katy.

Most of the coal the GRDA burns is now coming into its plant from Wyoming via the BN from the mine to Kansas City, and the Katy from Kansas City to the Chouteau plant.

GRDA officials say they expect to save the estimated $20 million cost of the GRDA railroad in three years if they can create competition for the haul.

The negotiations with the Katy will involve obtaining its permission to cross the Katy tracks and use a spurline which it owns.

Robert Sullivan, general counsel, said he presumes GRDA has a right to cross the Katy because it has the power of eminent domain, but he has not researched the question.

The proposed GRDA railroad would connect with the BN and the Union Pacific near Claremore, where their lines cross.

The project will involve the construction of track which will have to cross the Union Pacific near Inola, and the Katy between Pryor and Chouteau.

Western Fuels is a non-profit entity which represents utilities in fights for lower railroad rates and plans and builds short lines for the utilities.

In other action, the GRDA board voted to invite bids on a second 50,000-ton purchase of Oklahoma coal to be burned in a mixture with Wyoming coal.

Bids will be submitted to the board at its May meeting, said Billy Mac Thomison of Cleveland, chairman of the coal committee.

The first 50,000-ton purchase of Oklahoma coal for GRDA was delivered by rail from lines west of Vinita.

Sullivan said the railroad GRDA proposes to build could be used to haul Oklahoma coal to the plant as well as Wyoming coal.

H.T. Dimmerman:
As information.
Also at this board mtg Bob Sullivan, General Counsel, was named to succeed Jim Ekstrand as Asst. General manager, Jim is expected to retire within 4 months. Pam May, GRDA attorney was named to succeed Bob as General Counsel, Jim Ekstr told me effective date probably April 1, although he will not retire until sometime between July & Sept
HB Musgrove 3/2

cy. GJE / RLT
~~RWH~~ 3/27/86

TFS
JFD
Note & return to me.
RWH
3/27/86

Copy to M.E. Roper:
Mike, see paragraph regarding Bob Sullivan's statement about crossing Katy tracks account eminent domain. Is this presumption correct?
Bob Hengehold
3/27/86

③

155-31-31 (DA)
155-U-31 (GRDA #2)

PSO, GRDA plan spurs; Rogers rail age recalled

Tulsa Tribune 2/26/86

Tribune State Staff

CLAREMORE — Rogers County may be on the verge of another railroad building era reminiscent of the railroad building age of 100 years ago.

Public Service Co. of Oklahoma has announced plans to build a 10-mile spur from the Burlington Northern near Foyil to its plant at Oologah which is on the Missouri Pacific.

Grand River Dam Authority is selling bonds which could be used to finance a 20-mile spur GRDA is talking about building from the Missouri Pacific and Burlington near Claremore to its plant east of Chouteau. That plant is now served by the Katy Railroad.

Estimated cost of the two projects is $30 million.

The county had its first experience with the railroad builders in the early 1880s.

The Atlantic and Pacific — later known as the Frisco and now part of the Burlington Northern — decided to extend its pioneer line southwest from Vinita in an effort to intercept cattle herds being driven overland to railheads in Kansas for shipment to the East.

In 1885, the Kansas and Arkansas Valley, a subsidiary of the St. Louis, Iron Mountain and Southern, was incorporated to extend the Little Rock and Fort from Van Buren and Fort Smith, Ark., to Coffeyville, Kan.

Both ventures proved disastrous for of investors but very exciting for early settlers as they watched the track laying

See RAILROAD, page 4D

Railroad

From page 3D

crews advance across the prairies.

In the early days of the railroad age, it was learned that two railroads were better than one because the rates they charged were lower when they had competition.

The railroad spurs PSO and GRDA are talking about are based on this same idea.

Both are bringing in millions of tons of coal from Wyoming mines which are on the tracks of the Burlington Northern.

GRDA officials say if they have the option of shipping or not shipping over the Katy, Katy rates will be lowered enough to pay for the 20 miles of railroad in three years.

PSO is saying if it can bypass the Missouri Pacific, it can pay for 10 miles of railroad and save electric customers $100 million in 11 years.

The cost of coal burned as fuel in the generating plants is half the cost of the electricity people use in their homes and the vague information the electric companies put out indicates freight rates may be three-fourths of the delivered cost of the coal.

~~TFS~~
~~FED~~
Note & return to me.

Russ
3/3/86

TFS

This is just about right — WY coal but not OKL coal. Rus 3/5

B.S. pls. return to me.

H. T. Dimmerman:
As information —
HB Musgrove
2/27/86

cy: GE
RLT
~~RWH~~ 3/3/86

155-61-31 (GRDA 3N)
155-61-31 (GRDA CNW)

TULSA TRIBUNE 12/19/85

GRDA reconsiders, decides to sell bonds

By JOSEPH E. HOWELL
Tribune Writer

CHOUTEAU — Grand River Dam Authority directors did an about face Wednesday afternoon and sold bonds to finance a three-year program of improvements estimated to cost $108.9 million.

Heading the list is a 20.5 mile long railroad spur to be built from Claremore to the GRDA coal fired power plant east of here.

Estimated cost is $30,518,000 with February the starting date and April 1988 the completion date.

"That ought to send a signal to the Katy railroad that we are in earnest in our effort to get them to lower their freight rates," said Bill Mickey, GRDA general manager.

At the present rate of more than $16 a ton, it will cost GRDA more than $48 million to bring in the 3 million tons of Wyoming coal it expects to need next year.

The GRDA plant is served by the Katy, and the Wyoming mines are on the Burlington Northern.

GRDA wants to build a line from the Burlington tracks in Claremore to the Chouteau plant which would let it bypass the Katy and have connections with the Missouri Pacific.

If there was competition for the GRDA haul, Billy M. Thomison, chairman of the GRDA coal committee, contends the freight rate could be brought down enough to pay for the Claremore spur in three years.

In Wednesday's action GRDA sold a group of underwriters $130 million in short term tax exempt revenue bonds and authorized investment of the proceeds in taxable bonds with the same maturities.

Tifton Simmons Jr., senior vice president of Smith Barney & Co., Inc., spokesman for the underwriters, said average interest cost of the GRDA bonds will be 6.4 percent, and the average return on the securities purchased with the GRDA funds will be 7.8 percent.

Simmons said this will let GRDA recoup all costs of the sale and make a profit of $500,000 if it does not use the bond proceeds to construct any of the projects on the $108.9 million list.

According to Simmons, GRDA can replace the short term debt with long term tax exempt bonds when it does decide to start construction.

Simmons said by selling the short term bonds now, GRDA will save $11 million on debt service cost when it does decide to replace them with long term bonds.

Proceeds from the $130 million bond issue will cover construction costs, an underwriters' discount of 1.4 percent and provide reserves required by investors, Simmons said.

The financing package was presented to the GRDA board at a special meeting a week ago.

The board adjourned without considering it after deadlocking on inclusion of expansion of the Salina pumped storage plant at an estimated cost of $130 million in the project list.

There was no mention of the pumpback expansion Wednesday and only one board member, Marvin Hicks of Tahlequah, voted against adoption of the rest of the projects on the list.

Other items on the list include:

Adding two generating units at the Fort Gibson Dam, $24 million.

Extending GRDA's 345kv line to serve the western part of its service area, $11 million.

Reconstructing the cooling tower for GRDA coal fired plant No. 1, $10 million.

Constructing a 138kv line from Catoosa to Dawson, Beggs and Bristow, $7.5 million.

Extending GRDA's 161kv system to Sallisaw and expanding the Sallisaw substation, $5 million.

Upgrading transformrs at various locations, $5 million.

Updating the dispatch and control center at the Markham Ferry Dam, $4.5 million.

Installing a system to determine the respective GRDA and KAMO loads, $4 million.

Rebuilding Tahlequah to Stilwell and Gore to Sallisaw 69kv lines, $2 million each.

Installing a boiler peformance evaluation system, $500,000.

Updating Pensacola substation, $2 million.

Remodeling management and training center, $300,000.

Converting GRDA No. 1 so it can be started by burning natural gas instead of fuel oil, $400,000.

Renovating lake patrol headquarters, $200,000.

HTD:
As information —
HBMusgrove 12/20/85

cc: JJE
RLT
~~RWH~~ 12/30

CC: 155-61-31 (GRDA-AN)
155-61-31 (GR -CNW)

GRDA declines early sale of notes

12-12-85

By JOSEPH E. HOWELL
Tribune Writer

CHOUTEAU — The Grand River Dam Authority board has shelved a proposal that the GRDA issue $238.9 million in three-year notes to nail down tax-exempt status for projects it might want to finance in the next few years.

Most expensive of the projects on a list submitted by the GRDA staff was expansion of the Salina pumped storage plant at an expected cost of $130 million.

Other proposals included building 20.5 miles of railroad tracks from Claremore to the GRDA coal-fired generating plant east of Chouteau and adding two hydro-electric generating units at the Fort Gibson dam.

THE RAILROAD was estimated to cost $30.5 million and the Fort Gibson units $24 million.

Billy Mac Thomison, chairman of the coal committee, said he believed the Claremore line would permit railroads to compete for hauling coal to the GRDA plant and would pay for itself in three years.

The Fort Gibson proposal is part of a plan for GRDA to obtain control of the existing units at Fort Gibson so power operations there can be integrated with operations at the Grand River and Markham Ferry dams.

The list included $54.4 million in other projects which staff members said are needed or would prove to be paying investments.

A special meeting of the board adjourned without considering the financing proposal after three of the six members present voted against adoption of the list.

The "no" votes were cast by Thomison, of Cleveland, an Indian Electric Cooperative executive; Marvin Hicks, superintendent of municipal utilities at Tahlequah; and Jerry Haynes, Pryor principal.

When a motion by Haynes for approval of the list with the pumped storage expansion deleted died for lack of a second, the board adjourned abruptly and without further discussion.

THE PUMPED storage plant has been a sore point since it was proposed as part of 25-year agreement with Public Service Co. of Oklahoma which was forced on a reluctant GRDA board by Gov. Raymond Gary in the 1950s.

The project list was developed with the idea that a prohibition against issuing tax exempt bonds would be one of the features of the tax reform bill now being considered by Congress.

Board members were told that on today's market the interest rate would be 11½ to 12 percent on taxable bonds compared with 9⅗ percent for tax exempt bonds.

The financing plan submitted to the board involved GRDA using the proceeds from three-year notes to buy taxable federal securities with the same maturities.

Underwriters said they would charge 1.4 to 1.5 percent for marketing the notes, and not over 1.75 percent for marketing long-time replacement securities when GRDA decided to go ahead with any of the projects.

The board was told it could expect to make $1,750,000 on the note deal even if it built no projects, and might save $23 million to $45 million in interest costs if it decided to proceed with construction.

H. T. Dimmerman:
As info -
HBMusgrove
12/16/85

cy: GGE
RLT
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RWH
12/19/85

Tulsa Tribune 11-20-85

155-U-31 (GRDA #2)
155-31-31 (GRL)

TFS
JFD
Note we have dropp'd. RWN 11/26/85

GRDA rushes bond package

By JOSEPH E. HOWELL
Tribune Writer

PRYOR — Grand River Dam Authority officials are rushing to prepare a $101 million bond package for presentation at the GRDA board meeting this afternoon.

The proposal is designed to provide funds to construct a railroad from Claremore to the GRDA coal-fired power plant east of Chouteau, to double the size of the pumped storage generating plant southeast of Salina, and other projects.

Bill Mickey, general manager, said the proposal is being rushed because GRDA has been told that under a federal tax bill expected to go into effect Jan. 1, GRDA will no longer be able to issue tax-exempt bonds.

MICKEY said GRDA has worked closely with the Oklahoma congressional delegation and it is expected the tax bill will contain a grandfather clause, under which projects in the mill at the time the bill takes effect still will qualify for tax-exempt status.

Without the power to issue tax-exempt bonds, GRDA would have to pay 11 to 12 percent interest compared with the 9 percent rate on some of the last bonds it issued, according to Mickey.

Mickey said GRDA can issue $101 million in bonds under its present authorization from the Legislature.

He said a list of projects for which the bond money could be used is being developed.

He said the GRDA coal committee strongly recommends construction of a railroad that would give GRDA a connection with the Burlington Northern and the Missouri Pacific railroads at Claremore.

THE GRDA Chouteau plant now is served only by the Katy Railroad.

He said the coal committee believes having a competing rail connection would lower freight rates on Wyoming coal enough to pay for the line in three years.

Estimated cost of the 20-mile railroad is $30 million.

Mickey said he expects the GRDA board to authorize advertising for bids on 50,000 tons of Oklahoma coal for delivery beginning in February.

HT Dimmerman:
Attached for your information - Jim Ekstrand advises bond package was authorized at the board meeting. They are protecting their options, particularly if UP and Katy do not merge -
HB Mussmine
11/21/85

cy: JJE
RLT
~~RWH~~

11/26/85

(4) Rw

WESTERN COAL

5/21/85

Issue No. 500

TFS
JFD
To note & return to me
Rw
5/23

GRDA, BN SIGN 3-YEAR CONTRACT TO HAUL WYOMING COAL

The GRAND RIVER DAM AUTORITY, Vinita, OK, has signed a three-year contract to have BURLINGTON NORTHERN haul a total of 8.4 million tons of Wyoming coal to its power plant at Chouteau, OK.

By the end of the three years, GRDA hopes to have completed construction of a private rail spur or other facilities giving it access to the main BN and UNION PACIFIC lines 20 miles away at Claremore, OK (see WC 494, 4/9/85). Among the options GRDA is considering is a pneumatic pipeline for moving the coal, an official said, but a rail spur "looks to be the most viable."

Once that spur line or other facility is completed, he commented, "we should get more competitive rates" for hauling coal from Wyoming's Powder River Basin to Chouteau. The MISSOURI-KANSAS-TEXAS RAILROAD now brings coal trains to Choteau from the BN line at Kansas City.

EXXON's CARTER MINING CO. is the primary supplier to GRDA #1 from its Rawhide mine in Campbell County, WY. MOBIL COAL PRODUCING will start supplying coal to GRDA #2 next year from its Caballo Rojo mine, also in Campbell County.

GRDA expects eventually to burn 50% Oklahoma coal in GRDA #2, which is scheduled to come on line in September, but will use Wyoming coal initially. The utility probably will start looking for Oklahoma coal for it "about a year from now," said fuels official Jim Ekstrand.

Ekstrand also said he may start looking for around 500,000 tons of spot coal this summer, for delivery starting in the fourth quarter.

The most recently reported delivered cost to GRDA #1 was 145.86¢/MBtu or $24.03/t for 195,478 tons of 8,238 Btu/lb., 0.37% sulfur, 5.3% ash coal from Mobil's Rawhide mine, delivered in February.

A BN spokesman said the GRDA contract raised its total coal shipments to 98 million t/y -- 73% of its anticipated coal-hauling traffic.

NERCO COAL TO PUT HEADQUARTERS IN ST. LOUIS: NERCO COAL CORP., the consolidation of NERCO, INC.'s, eastern and western coal operations, has decided to locate its headquarters in St. Louis.

The move will be made some time this summer, a Nerco official said. Nerco is a subsidiary of PACIFICORP, Portland.

COAL SHIPMENTS RAISE B.C. RAIL PROFITS

A rise in coal car loadings from 40,823 to 57,382 has helped increase BRITISH COLUMBIA RAILWAY profits to C$13.9 million (US$10.2 million) for the first quarter, up from $1 million (US$732,600) a year earlier.

BCR, which is wholly owned by the province of British Columbia, reported revenue of C$70.4 million (US$51.6 million) for the quarter, compared with C$49.8 million (US$36.3 million) in 1984.

For 1984, BCR reported a profit of C$42.7 million (US$31.3 million) from total revenue of C$256.1 million (US$187.6 million), up from a C$40 million (US$29.3 million) profit in 1983. Car loadings for 1984, the first full year of coal shipments, increased to 200,257 from 148,769 a year earlier.

BCR ceased to be an operating railway company last June and became a holding company for two subsidiaries, B.C. RAIL LTD. and BCR PROPERTIES LTD. B.C. Rail reported a C$124,000 (US$90,800) profit for the first quarter on operating income of C$18.6 million (US$13.6 million).

TULSA TRIBUNE 5/15/85

155-61-31 (GRDA-BN)

Coal freight rate agreement reached by GRDA, railroads

By JOSEPH E. HOWELL
Tribune Writer

VINITA — The Grand River Dam Authority and the railroads which haul its coal have agreed to a three-year truce over freight rates which represent two-thirds of the cost of fuel at the authority's steam generating plants.

Burlington Northern, on whose tracks the coal originates, has notified GRDA it has signed a three-year contract for coal transportation previously approved by GRDA directors, James G. Ekstrand, assistant general manager, said.

Ekstrand said the Katy railroad, to which the BN delivers the GRDA coal at Kansas City, Mo., and which hauls it to the GRDA plant east of Chouteau, is also expected to sign.

During the three years, Ekstrand said there could be developments which would create competition for the GRDA coal movement where the BN and the Katy now enjoy a monopoly.

He said it is expected the Chicago Northwestern railroad will have extended its lines into the Wyoming coal fields from which GRDA gets coal.

And during the same period he said the Union Pacific which has a coal hauling agreement with the CNW may have purchased the Katy.

The three years also will give GRDA time to explore the idea of building a railroad or a pneumatic capsule pipeline between its plant and Claremore where the BN and Missouri Pacific tracks cross.

Under the new agreement, Ekstrand said GRDA agrees to take 2.3 million tons, the first 12 months, 2.7 million tons the second, and 3.4 million tons the third 12 months.

He said the cost of coal delivered at the GRDA plant will be reduced from $1.45 per million BTU (thermal units) to $1.40, and this will make the fuel cost of electricity produced at the plant 1.5 cents per kilowatt hour.

In Fort Worth, John H. Hertog, BN senior vice president for coal and taconite, said the contract brings to 27 the number of agreements BN has with utilities and about 73 percent of the railroad's expected coal tonnage for 1985 is now under contract.

~~IES~~
~~JFD~~
To note & return to me.
RJK 5/18

TULSA WORLD 5/15/85

GRDA Enters Coal Transport Agreement

By a Staff Writer

FORT WORTH — Burlington Northern Railroad announced Tuesday it has signed a three-year contract with Grand River Dam Authority for coal transportation.

Grand River Dam Authority, based at Vinita, Okla., is a state public power agency.

The contract involves shipment of about 3 million tons of coal a year from the Powder River Basin in Wyoming to the GRDA's powerplant near Chouteau.

HTD:
Articles from Tulsa newspapers concerning coal contract with GRDA.
HBMusgrove
5-16-85 (1-GRDA)

cc: ~~RWH~~ 5/18
RLT

GRDA to consider building own tracks

Tired of the railroads' exorbitant pay-or-else freight-rate contract, the Grand River Dam Authority is considering building its own railroad track from Claremore to Chouteau.

Unable to use any other means of coal transportation from Wyoming, bound by Environmental Protection Agency requirements to use low-sulphur coal and faced with higher prices for coal located within trucking distance, GRDA's plan to cut its fuel cost makes the railroad building enticing.

"In an effort to provide competition to the MKT Railroad for delivery of our coal to the GRDA Units 1 and 2 plant site, the coal committee recommends the board direct management to embark on a feasibility study on the economics of building a railroad from Claremore to the plant site," Chairman Billy Mac Thomison told the board Wednesday.

"Both the Burlington Northern, Chicago Northwestern - Union Pacific - Missouri Pacific have access to Claremore," Thomison said. "A railroad from Claremore to the plant site would give GRDA the opportunity to deal with both Chicago Northwestern and the Burlington Northern on a one-line haul all the way from the Powder River Basin to our plant."

Since coal accounts for between and 40 and 50 percent of total freight hauled by rail, the competition between two or three railroads vying for GRDA's business is bound to get them better rates, Ekstrand feels.

"Having the ability to negotiate with other railroads which have the capability to bring the coal the total 1,034 miles from the mine to the plant would end the need to ship to Kansas City and transfer to MKT Railroad for the trip to the plant," Ekstrand said.

Approximately 75 percent of the Authority's coal cost consists of freight, according to Assistant General Manager Jim Ekstrand.

"Our ratepayers pay higher rates because the total cost

(Continued on Page Two)

—RR tracks—

(Continued from Page One)

per ton of coal is one quarter fuel and three quarters freight charges," Ekstrand said. "GRDA, like other bulk shippers of grain, coal and lumber, is a captive shipper. We have no alternative to rail shipment. The railroads have a monopoly and they have been taking advantage of it, to the detriment of our ratepayers."

The GRDA staff estimates if railroad freight rates were more in line with actual cost of providing service, the upcoming electric rate increase scheduled over the next three years could be almost completely negated.

"Although railroad contract rates are confidential, we have a general idea what other people pay the railroads," Ekstrand said. "We are well aware that GRDA pays more than a lot of people to get its coal from Wyoming to Chouteau."

Captive shippers have long attacked the railroads' practice of differential pricing, where the coal shippers are overcharged to subsidize other cargo.

Because the Authority is faced with escalating railroad freight rates and because the Interstate Commerce Commission seems to be concentrating solely on the task of improving carrier revenues, ignoring the problems of captive shippers, the private railroad proposal becomes more and more attractive.

The feasibility of the railroad from Claremore to Chouteau will have to be based on an economic survey and comparison of rates, Ekstrand said.

H.T. Dimmerman:
Attached from
The Mayes County
Weekly 1/23/85
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~~RWH~~ 1/28/85

H. L. Zimmerman:

Per our conversation attached article concerning GRDA study to possibly build short line Claremore - Pryor -

HB Musgrove
1-17-85

cy: RLT
RWH 1/19

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Ray
1/17/85

RW#

GRDA to Consider Short-Line Railroad

By BOB MYCUE
Of the World Staff

VINITA — Grand River Dam Authority has decided to study whether to build a short-line railroad as a way of helping drive down the cost of coal delivery to its Chouteau-area power plant.

As outlined at the GRDA board meeting Wednesday, the centerpiece of the plan to obtain more competitive rail rates would be a 25-mile stretch of line GRDA would build from Claremore to its coal-fired plant east of Chouteau.

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The short-line railroad, GRDA officials say, would have the effect of putting three major rail lines in the GRDA coal hauling business.

Burlington Northern hauls coal from Wyoming to Kansas City, Mo., and from there the Missouri-Kansas-Texas (Katy) line carries it to the GRDA generating complex. The third railroad coming into the GRDA rail hauling picture is the Chicago Northwestern.

The resolution approved by the board states, in part, "In an effort to provide competition to the Katy line for delivery of our coal to the GRDA Unit 1 plant site, the coal committee recommends that the board direct management to embark on a feasibility study of the economics of building a railroad from Claremore to the plant site. Both the Burlington Northern and the Chicago Northwestern have access to Claremore and a railroad from Claremore to the plant site would give the GRDA the opportunity to deal with both the Chicago Northwestern and the Burlington Northern on a one-line haul all the way from the Powder River Basin (in Wyoming) to our plant."

GRDA officials said after the meeting the main purpose of building the short-haul line would be to provide an alternate second rail line into the plant and thus introduce competition into the freighting of coal from Kansas City to the GRDA power plant.

In July 1984, Chicago and Northwestern completed a 107-mile hookup into the vast Powder River Basin coal fields in Wyoming in a joint venture with the Union Pacific's rail unit. Previously, Burlington Northern dominated the huge western coal supply because it had the only track into the region.

The resolution approved by the GRDA directors stated there are funds available from previous GRDA revenue bond issues to finance the building of the short-line railroad extending from Claremore. #

The resolution said "Chicago Northwestern has just announced its intention to build a railroad from Coal Creek Junction in Wyoming to the Caballo mine of Exxon Coal Inc. (the GRDA supplier). It is expected that the line will take approximately three years to complete. If competitive rail rates to be obtained from Chicago Northwestern, and the Burlington Northern, indicate there are enough dollars to be saved to warrant building the railroad from Claremore to the plant site, that railroad, too, could be in service within the three-year period." #