BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE ABANDONMENT OF UNION PACIFIC RAILROAD COMPANY’S GRACE INDUSTRIAL LEAD IN CARIBOU COUNTY. | ))))) | CASE NO. UP-RR-95-3ORDER NO.  26147 |

SYNOPSIS

On June 21, 1995, the Union Pacific Railroad Company (Union Pacific) filed a formal notification with this Commission that it intends to file a Petition with the Interstate Commerce Commission (ICC) to abandon the Grace branch line between mile post 0.1 and the end of the line at mile post 5.8 near Grace, Idaho.

Already aware that Union Pacific intended to file for abandonment with the ICC, the Commission conducted a public hearing in Grace on July 18, 1995 to determine what affect the abandonment would have on the communities served by the Grace branch.  Based on the evidence presented at the Grace hearing and throughout the course of this case, the Commission has determined not to protest the proposed abandonment before the ICC.

THE HEARING

Union Pacific presented the testimony of Mr. Charles Clark.  According to Mr. Clark, the Grace branch line was built by the Oregon Shortline Railroad in 1913.  It is approximately six miles long and travels south from Alexander, which is located on the main line, to Grace over mostly 75 pound rail.  According to Union Pacific, this is extremely light gauge when compared to most branch lines which are built with 90 pound or heavier rail.  Main rail line is typically 133 pound.

In 1987, the ICC, at Union Pacific’s request, granted an embargoment of the Grace line for the winter, usually lasting from November until the end of March depending upon weather conditions.  The branch line was permanently embargoed by the ICC on April 5, 1995.  A routine bridge inspection indicates that repairs to the five bridges located on the branch line are necessary.  Union Pacific estimates that an initial investment of $275,000 would be required to bring the four wooden bridges up to safe operating standards.  In addition, the Company asserts, the metal bridge located on the line would soon need to be replaced at an additional cost of approximately $1 million.  The Company estimates that this bridge was constructed in 1895.  Thus, Union Pacific believes that all five of the bridges located on the branch line present a safety concern.

At the time the line was permanently embargoed, Union Pacific had only one customer on the line: Farmland.  Mr. Clark estimates that, at that time, Farmland was shipping approximately 68 cars annually over the Grace branch.  Farmland, with the assistance of Union Pacific, has made alternative arrangements to transport its product and has not shipped any cars on the Grace branch line since late 1994.  Farmland did not attend the hearing and did not oppose the abandonment.  Given the costs associated with upgrading the bridges on the line, Union Pacific asserts that the line cannot be operated profitably.  Union Pacific contends that it made efforts to determine whether there might be additional shippers interested in using the line sometime in the future but ultimately concluded that there were not.

Union Pacific notes that, assuming approval by the ICC of the abandonment, there are 17.5 acres of land that will revert to prior owners and 77.8 acres of non-reversionary land owned by Union Pacific.  Union Pacific has pledged to cooperate with adjacent land owners, including the City of Grace, who might be interested in purchasing the non-reversionary property.

  Mr. Kelly Holt, Mayor of the City of Grace, also testified at the hearing.  Mr. Holt testified that Union Pacific had been cooperative in working with the City on the matter of the abandonment. He stated that although the abandonment will be detrimental to the City of Grace in some aspects, the City will benefit with respect to the ownership of the land on which the line is currently located.  Mr. Holt declined to elaborate how the City might benefit in this manner but was convinced that the abandonment, on the whole, was desirable from the City’s viewpoint.  Mr. Holt stated that he was not aware of any additional shippers who might be interested in using the line in the future.  He further stated that the local roads were adequate to accommodate the increased traffic that will result from Farmland shipping its product by truck.

Idaho State Senator Lin Whitworth testified on behalf of the United Transportation Union.  Senator Whitworth contended that there have been no major repairs to the Grace branch during the past ten years.  He stated that the bridges in question have been in need of repair for many years and that this is not a new development.

Senator Whitworth contended that there is still a need for a railroad line into Grace to serve the agriculture business surrounding the area.  He suggested that, for instance, potato processing will never develop without a railroad.

In addition, Representative Robert C. Geddes testified that he had not been contacted by anyone either in support of or in opposition to the abandonment.

Senator Robert L. Geddes testified that the only concern that has been expressed to him regarding the abandonment is whether the rail crossing on Highway 34 will be removed after the abandonment is completed.

F I N D I N GS

Pursuant to Idaho Code § 62-424 this Commission is required, whenever a rail line within the state of Idaho has been proposed for abandonment, to conduct a hearing to determine whether (1) the abandonment would adversely affect the area being served; (2) there is reason to believe that the closure would impair the access of Idaho communities to vital goods and services and market access to those communities; and, (3) whether the line has potential for profitability.  In the event that the foregoing criteria are satisfied, then the Public Utilities Commission is directed to transmit a report of its findings to the ICC on behalf of the people of the state of Idaho.

In spite of the legitimate concerns expressed by Senator Whitworth regarding abandonments in general, we find that there was no evidence presented during the course of the hearing suggesting that the community of Grace or the surrounding areas would be adversely affected by the abandonment of the Grace branch line or that those communities would no longer have access to vital goods and services.  To the contrary, the only shipper using the line in the past year has apparently made satisfactory arrangements to deliver its products via other modes of transportation and does not oppose the abandonment.

Furthermore, the Mayor appears pleased at the opportunities the abandonment presents in terms of the acquisition by Grace of Union Pacific land.  We find, therefore, that the area being served by the Grace branch line will not be adversely affected by the closure of that line and the communities in that area will not be deprived of access to vital goods and services.  Considering that Idaho Code § 62-424 requires an affirmative finding of the foregoing criteria, our analysis could end here.  Nonetheless, we also note that no evidence was presented indicating that it would be possible for Union Pacific to make a profit operating the Grace branch line.  In fact, considering the investment that would be required to bring the five bridges to an acceptable level of safety, and the fact that there was only one shipper operating on the line shipping approximately 68 cars annually prior to the embargoment, it is highly questionable whether Union Pacific could operate the Grace branch profitably.  Furthermore, no evidence was presented indicating the existence of additional shippers who might need the line in the future.

While we regret the affect that the abandonment of rail lines has on rural communities in general, there was simply no evidence presented satisfying the criteria set forth in Idaho Code § 62-424.  Accordingly, this Commission will not oppose the abandonment before the ICC and our investigation is hereby closed.

O R D E R

IT IS HEREBY ORDERED that, for the reasons set forth herein, the Commission will not oppose the abandonment of the Grace branch line.  This case is closed.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. UP-RR-95-3 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. UP-RR-95-3.  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of  August 1995.

                                                             RALPH NELSON, PRESIDENT

                  MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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