(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE COMMISSION’S INVESTIGATION INTO THE PROPOSED CLOSURE BY THE UNION PACIFIC RAILROAD COMPANY OF ITS HOMEDALE BRANCH. | )))))) | CASE NO. UPR-R-97-1ORDER NO.  27055 |

BACKGROUND

On February 4, 1997, the Union Pacific Railroad Company (Union Pacific) submitted notice to the Idaho Public Utilities Commission that Union Pacific intended to abandon its Homedale Branch from milepost 33.5 in Marsing to milepost 11.4 in Adrian, Oregon.

On June 3, 1997, the Commission conducted a public hearing for the purpose of soliciting input regarding Union Pacific’s proposed closure of the Homedale branch.  The hearing was conducted in Marsing.  Seven members of the public offered their comments.  The Mayor of Homedale, Mr. Paul Fink, testified that he has been in contact with several of the business people in town that use the rail and that they reportedly see no benefit to maintaining rail service in Homedale.  Tr. p. 4.  Furthermore, he notes that the Homedale City Council does not support continued rail service.  Rather, the Council prefers that the rail be removed primarily because the crossings are in poor condition.  Tr. p. 5.

Mr. Jerry Bowman, owner of Bowman Produce, testified that he relies on rail service for the shipment of his products.  He recognizes that the line has not been particularly profitable and he has had to rely increasingly on trucks.  His primary concern is that he be provided the opportunity to purchase Union Pacific land adjacent to his property in order to facilitate his use of trucks to ship his products.  Tr. p. 11.

Mr. Jon Watson, owner of J. C. Watson Company, testified that he also ships produce, as well as fertilizer, on the Homedale Branch.  Mr. Watson stated that he has come to rely more on trucking for the shipping of his produce but would prefer to utilize rail for inbound shipments of his fertilizer.  Mr. Watson states that the fertilizer business is highly competitive and that the abandonment will increase his shipping costs.  While he opposes the abandonment, he recognizes that Union Pacific needs to take necessary steps to remain “economical.”  He believes that he can adapt to the loss of the Homedale Branch if the Railroad cooperates with him in the transfer of land adjacent to his property.  Tr. p. 20.

Mr. Dale Wheeler testified on behalf of the United Transportation Union.  His group opposes the abandonment of the Homedale Branch believing that there is significant opportunity for potential growth in the respective communities of Homedale and Marsing necessitating the continued existence of the Homedale Branch.  He further expressed the concern that the increased truck traffic resulting from the proposed abandonment would push the local highways beyond their carrying capacity.  Tr. pp. 26-27.

Finally, several other witnesses testified expressing their opposition to the conversion of the Homedale Branch into a recreational byway due to the perceived threat of vandalism to the properties.

According to data included with Union Pacific’s application to the Surface Transportation Board, there were 49 cars shipped on the Homedale Branch in 1995 and 42 cars in 1996.  Union Pacific expects this to decrease to 39 cars during the current year.  Union Pacific states that it expects to incur an operating loss of $209,836 for the year May 1, 1997 through April 30, 1998, if it continues to operate the line.  In addition, Union Pacific calculates a lost opportunity cost for the same period of $242,390.  Union Pacific contends that because of alternate truck transportation as well as its continued services at Wilder, there will be “minimal adverse effect on local interests” resulting from the abandonment.

FINDINGS

Idaho Code § 62-424 provides:

Hearing on Abandonment — Whenever any railroad proposes to abandon any branch line or main line now in operation within the state of Idaho, the railroad shall file notice of the intended abandonment with the public utilities commission.  The public utilities commission shall schedule a public hearing on the proposed abandonment.  If the hearing results in a finding by the commission that the abandonment of the branch line or main line would adversely affect the area then being served and that 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 that the line has potential for profitability, then the public utilities commission shall transmit a report of its findings to the United States surface transportation board on behalf of the people of the state of Idaho. [I.C. § 62-424, as added by 1985, ch. 82, § 1, p. 157; am. 1997, ch. 371, § 1, p. 1184.]

The Commission does not have the authority to prohibit a railroad from abandoning its lines within the state of Idaho.  Such authority rests exclusively with the Surface Transportation Board (STB).  Nonetheless, the foregoing statute provides this Commission with an opportunity to provide input to the STB if the Commission finds that the abandonment would (1) adversely affect the area in question; (2) impair the access of Idaho communities to vital goods and services and market access to those communities, and; (3) that the line being abandoned has the potential for profitability.

We find that the evidence presented to us during the course of our investigation in this matter suggests that none of the three foregoing criteria have been satisfied.  We find it significant that only two of the shippers actually using the line in question express any concern about its closure.  Both those shippers state that they have been able to arrange alternate transportation for their products.  Moreover, no evidence was presented suggesting the closure of the Homedale Branch would impair the access of the communities of Marsing or Homedale to vital goods and services.  Finally, the only evidence discovered during the course of the Commission’s investigation regarding the profitability of the Homedale Branch indicates that, under current conditions, the branch cannot be operated profitably.

Based upon the foregoing, we will not submit a report of our findings to the Surface Transportation Board.  In reaching our decision, we are mindful of the negative effects that a railroad abandonment can have on the economy and morale of small communities.  We find the systematic abandonment of branch lines throughout this state is regrettable.  Our ability to influence this, however, is severely limited because of federal supremacy over railroad abandonments.  We hereby terminate our investigation into the closure of the Homedale Branch.

O R D E R

IT IS HEREBY ORDERED that, for the reasons set forth herein, the Commission shall not transmit a report of its findings to the Surface Transportation Board regarding the closure of the Homedale Branch.  The Commission’s investigation into the closure of the Homedale Branch is hereby 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. UPR-R-97-1  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. UPR-R-97-1 .  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 July 1997.

                                                                                                                                       DENNIS S. HANSEN, PRESIDENT

                                                                                            RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

July 18, 1997