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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF UNION PACIFIC)
RAILROAD’S NOTICE OF PROPOSED) **CASE NO. UPR-R-20-01**
ABANDONMENT OF A 1.16 MILE SEGMENT)
OF RAIL LINE)
)
) **COMMENTS OF THE**
) **COMMISSION STAFF**
)

STAFF OF the Idaho Public Utilities Commission, by and through its Attorney of record, Dayn Hardie, Deputy Attorney General, submits the following comments.

BACKGROUND

On August 24, 2020, the Commission received correspondence from Union Pacific Railroad Company (“Company”) proposing to abandon an approximately 1.16-mile segment of a railroad known generally as the “Coeur D’Alene Industrial Lead” in Coeur D’Alene, Idaho, from milepost 1.09 to milepost 2.25. The rail line traverses United States Postal Service ZIP Code 83854. The Company indicated it would petition the Surface Transportation Board (“STB”) to abandon this rail line. *See* 49 C.F.R § 1152.50. The Company represented that it would provide any available documentation in the Company’s possession promptly to those requesting it.

On September 18, 2020, the Company filed a Verified Notice of Exemption with the STB, Docket No. AB-33 (Sub-No. 346X) seeking an exemption from 49 U.S.C. § 10903. *See* 49 C.F.R § 10502. The Company represents that the section of rail line it petitioned to abandon

only serves one customer, and that customer has voluntarily elected to relocate its facility. If the Company receives authority to abandon the section, the track and property will be conveyed to the State of Idaho through the Idaho Transportation Department (“ITD”).¹ The segment of rail line does not contain any federally granted rights-of-way.

The STB’s exemption process allows railroads to abandon rail lines if the abandonment is not necessary to carry out national transportation policy and the scope is limited *or* the application of [49 U.S.C. § 10903] is not needed to protect shippers from the abuse of market power. (Emphasis added). *See* 49 U.S.C. §§ 10502 and 10101.

The STB will issue a final decision on the proposed abandonment by January 6, 2021.

STAFF COMMENTS

Although the authority to grant or deny abandonment rests with the STB and is governed by federal law, the Commission has an obligation under state law to hold a public hearing regarding the abandonment and to represent the State in STB abandonment proceedings if deemed necessary. *Idaho Code* § 62-424 provides that the “commission shall schedule a public hearing on the proposed abandonment.” The purpose of the hearing is for the Commission to determine whether the abandonment would: (1) adversely affect the area being served; (2) impair the access of Idaho shippers to vital goods and markets; and (3) whether the rail line has potential for profitability. If the Commission finds that the abandonment would be averse to the public interest, then it may represent the State in the STB abandonment proceeding. *Idaho Code* § 62-424(2).

Staff has reviewed the Company’s Application and materials filed with the STB. Staff verified that there is only shipper, AmeriGas Propane, on the rail line proposed to be abandoned. The record at the STB reflects that AmeriGas Propane has reached an agreement with the ITD to relocate its facility away from the rail line. According to the Company, abandonment of the section of rail line will allow ITD to expand Highway 41. The abandoned section of rail line will be conveyed to ITD for use as a trail subject to issuance of a notice of interim trail use or abandonment.

¹ The Company’s material on file with the STB refer to the Idaho Transportation Department as the Idaho Department of Transportation.

Based on its review of this matter Staff believes that abandonment of the rail line would not adversely affect the area being served or impair the access of Idaho shippers to vital goods and markets. Because AmeriGas Propone has voluntarily agreed to move its facilities off the line there is no indication that this section of rail line has the potential for profitability for the Company.

STAFF RECOMMENDATION

Staff recommends that the Commission not object to or participate in any proceedings before the STB regarding this matter.

Respectfully submitted this 2nd day of December 2020.



Dayn Hardie
Deputy Attorney General

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 2ND DAY OF DECEMBER 2020, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. UPR-R-20-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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