SUSAN E. HAMLIN

DEPUTY ATTORNEY GENERAL

IDAHO PUBLIC UTILITIES COMMISSION

472 WEST WASHINGTON STREET

PO BOX 83720

BOISE,  IDAHO  83720-0074

(208) 334-0300

Street Address for Express Mail:

472 W WASHINGTON

BOISE ID  83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF UNION PACIFIC)

RAILROAD COMPANY’S PROPOSED  )CASE NO. UP-RR-95-2

ABANDONMENT OF THE TRACKAGE      )

BETWEEN MILEPOST 7 AT MADDENS )

AND MILEPOST 24 AT EMMETT.)COMMENTS OF

                                  )COMMISSION STAFF

                   )

                                                                 )

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Susan Hamlin, Deputy Attorney General, hereby submits these comments as provided for in the Notice of Application issued in this case December 6, 1995.

INTRODUCTION

On December 6, 1995, Union Pacific Railroad Company (Union Pacific) gave notice to the Idaho Public Utilities Commission (PUC) that it intends to abandon trackage between  milepost 7 at Maddens and milepost 24 at Emmett, in Gem and Canyon Counties, Idaho.  The Application also stated that Union Pacific will terminate its lease agreement with Idaho Northern & Pacific Railroad Company (Idaho Northern) for operation of rail service on the same 17.5 mile stretch from milepost 7 at Maddens and milepost 24 at Emmett.  The Application states that Union Pacific plans to abandon the trackage because it is out of service and claims this abandonment will have no effect on the shippers.  According to Idaho Code § 62-424, when a railroad proposes to abandon trackage, the PUC is required to determine whether (1) it would adversely affect the area being served, (2) there is reason to believe that the closure would impair the access to Idaho communities to vital goods and services and market access to those communities, and (3) the line has potential profitability.  It is Staff’s position that the abandonment of this trackage would not have an adverse impact to Idaho’s public interest.

STAFF’S INVESTIGATION

 To investigate the potential impact the proposed abandonment would have on the area and local shippers, Staff traveled to the communities of Middleton and Emmett, Idaho.  Staff talked with shippers, community leaders, and Railroad officials during July and August 1995, and again in January 1996.  Staff contacted the following shippers doing business near the proposed abandonment:  Boise Cascade, Gem Supply Co-op, Merrill’s Egg Farm, Crop Production Services, Emmett Valley Fruit, Salskov Transfer and Unimin.

1.  Affect on the Area Being Served

Based on its investigation, Staff determined that there will be little effect by the abandonment of the trackage in Gem and Canyon Counties, Idaho.  There has been no use of these rail lines between milepost 7 at Maddens and milepost 24 at Emmett this past year and Union Pacific claims for at least the last two years.  The lack of use indicates there would be no future traffic sufficient to justify the costs necessary to sustain rail operations over this line of tracks.  Union Pacific indicates that railroad traffic in these communities can be and is rerouted to other lines served by them.  Idaho Northern has rail lines that connect traffic from these communities to Boise, Pocatello and Huntington, Oregon (see attached map).  Union Pacific and Idaho Northern will continue to serve shippers near Emmett on the Payette-Cascade line thus giving them access to Union Pacific’s main line.  Union Pacific will continue to serve shippers near Maddens from the Nampa rail line.

2.  Access to Idaho Communities for Goods and Services

Staff found that none of the businesses mentioned above had any concerns or problems regarding the proposed abandonment.  Staff could not find an active rail shipper located on the portion of the line slated to be abandoned.   There was only one businessman, Joe Martinez of J&L Independent Supply,  in Middleton who indicated that he may want to use the rail lines in the future.  Mr. Martinez indicated that he had not used rail service in the past, but that there may be a time in the future that he may want to ship some of his products out by rail.  Staff feels that the concern raised by this businessman is speculative as he has not and is not currently using the rail lines for his business.   It is Staff’s opinion that this should not prevent the Commission from approving Union Pacific’s Petition to abandon this trackage.

Staff’s investigation also shows that many community leaders support Union Pacific’s abandonment of the trackage.  The Mayor of Middleton and the City Treasurer indicated that the town supports the abandonment and did not contemplate adverse effects on the community.  The Mayor of Emmett and the Economic Development Director said it would have no adverse effects to their community or businesses currently or in the future. The Chairman of the Gem County Board of Commissioners also stated that Gem County supported the proposed abandonment.

Staff met with Idaho Northern who leases this portion of trackage from Union Pacific.  Idaho Northern supports the proposed abandonment.  Idaho Northern has used the track in the past, but it required the use of five engines to pull the rail cars to the top of the hills that started numerous fires with sparks coming from the engines.  Idaho Northern indicates that they are not going to use that line regardless of the abandonment because in 1994 they received a bill from the Bureau of Land Management for $68,000 as a result of a fire from the engines.  Idaho Northern said that they would use the alternative route from the Payette Valley Line  to take care of their needs.

Staff was informed during the investigation that one of the alternative routes was disabled.  It was indicated that the rail switch at the Payette-Cascade line, giving access to Union Pacific’s main line, was spiked.  When contacted by Staff, Idaho Northern explained that there was a problem with Union Pacific’s switch at Payette on December 22, 1995, the Friday before New Years, and since there was to be no traffic on that line during the holiday weekend, the switch was “spiked” or disabled for repairs and returned to service the next week.  Idaho Northern indicated that they have access to Union Pacific’s main line and that service is working fine.  It is Staff’s position that as long as the railroad companies maintain these alternative routes, it will support the abandonment of the line from Maddens to Emmett.

3.  Rail Lines Potential Profitability

Staff’s investigation reveals that there is little if any potential for profitability if the line is kept open.  Idaho Northern indicates that using these tracks are too costly to continue as it takes five engines to pull their cars up the hills and sparks from the engines have caused fires on the lands near the tracks which they were required to pay. The Cities of Middleton and Emmett indicate that they did not see the abandonment having an impact on the towns and that they wanted to obtain the land once the tracks are removed to start a “Rails to Trails” project.  Staff feels that there is little potential for profitability if the tracks are left open.

RECOMMENDATION

Staff’s investigation shows that the abandonment of the line will have no adverse effects to the communities originally served by the lines, nor would it impair the access of the  communities to vital goods and services if the Payette Valley Line remains open and operational.  Staff could not find an active rail shipper located on the portion of the line slated for abandonment.  There appears to be very little if any potential for profitability if the line is kept open.   Members of the community did not oppose the abandonment because they could use the land for other uses.   Staff feels even if the line were to remain open, it would receive little if any use as long as the Payette Valley Line remains operational.  Rail service is critical to the Emmett Valley area.  If the proposed abandonment takes place, it will leave one line to provide service to the community.  Staff feels this is adequate as long as the Payette Valley line remains open.  Staff, however, emphasizes the importance of the Payette Valley Line remaining open and serviceable if Union Pacific is allowed to abandon the trackage in question.  Therefore, Staff supports the abandonment of the trackage between milepost 7 at Maddens and milepost 24 at Emmett.

DATED at Boise, Idaho this day of January 1996.

Susan E. Hamlin

Deputy Attorney General

Ron Law, Administrator

Regulated Carrier Division

cm/N:UP-RR-95-2.com

CERTIFICATE  OF  SERVICE

I  HEREBY  CERTIFY  that on this 17th day of January 1996, I served a true and correct copy of COMMENTS OF THE COMMISSION STAFF, in Case No. UP-RR-95-2, by United States Mail, postage pre-paid, to each of the following:

Joseph Anthofer

Law Department

Union Pacific Railroad Company

1416 Dodge Street, Room 830

Omaha, NE 68179-0001

George Millward

United Transportation Union

13245 Moonglow

Pocatello, ID 83202

SECRETARY