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

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF THE UNION PACIFIC RAILROAD’S PROPOSED ABANDONMENT  OF THE GAY BRANCH BETWEEN FORT HALL AND GAY IN BANNOCK AND BINGHAM COUNTIES, IDAHO. | )  )  )  )  )  )  )  )  ) | CASE NO. UP-RR-96-2  NOTICE OF APPLICATION           NOTICE OF  MODIFIED PROCEDURE  ORDER NO.  26608 |

On September 4, 1996, Union Pacific Railroad Company (Union Pacific) notified the Commission that it intends to submit formal Application to the Surface Transportation Board(footnote: 1) to abandon and discontinue operations over the Gay Branch between Fort Hall and Gay, Idaho.  Union Pacific indicates that the trackage proposed for abandonment extends from milepost 0.03 near Fort Hall to the end of the line at milepost 21.52 near Gay, a distance of 21.49 miles.  This segment proposed for abandonment is known as the Gay Branch and is located in Bannock and Bingham Counties.  There is one rail station on the rail line proposed for abandonment located at Gay at milepost 21.52.  See attached map.

Union Pacific asserts that there has been no freight shipments or local traffic originating or terminating over this line for at least the last two years, and the line has been used solely for storage of rail cars.  The Railroad further asserts that there are no shippers on the segment of track to be abandoned and there is no foreseeable possibility of future rail traffic moving over this portion of the branch.  Consequently, the Railroad claims that retention of this segment is not cost justified.

Given the assertion that no rail traffic has moved over this branch in the last two years, the Railroad’s STB Application qualifies as an “exemption application.”  In an exemption proceeding, abandonment will normally be granted by the STB 30 days after the publication in the Federal Register.  Union Pacific indicates that they expect to file with the STB on or about September 19, 1996.  The publication is expected in the near future.

The authority to grant or deny the abandonment rest solely with the Surface Transportation Board.  However, pursuant to Idaho Code § 62-424, the Commission conducts an independent review to determine whether the abandonment would adversely affect Idaho’s public interest.  More specifically, the Commission is required to determine whether the abandonment; (1) would adversely affect the area being served; (2) whether 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) whether the line has potential for profitability.  If the Commission finds that the foregoing criteria have been met, then it may transmit a report of its findings to the Surface Transportation Board on behalf of the people of the state of Idaho.

NOTICE

YOU ARE HEREBY NOTIFIED that the Commission has preliminarily determined that the public interest may not require a hearing to consider the issues presented and the issues raised by the Application may proceed under Modified Procedure, i.e., by written submission rather than by hearing (Commission Rules of Procedure, IDAPA 31.01.01.201 through .204).

YOU ARE FURTHER NOTIFIED that the Commission will not hold hearings in this proceeding unless it receives written protests or comments opposing the use of Modified Procedure and stating why Modified Procedure should not be used.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on the Application may file a written comment in support or opposition with the Commission within fourteen (14) days from the date of this Notice.  The comment must contain a statement of reasons supporting the comment.  Persons desiring a hearing must specifically request a hearing in their written comments.  Written comments concerning this Application shall be mailed to:

COMMISSION SECRETARYJEANNA L. REGIER

IDAHO PUBLIC UTILITIES COMMISSIONLaw Department

PO BOX 83720Union Pacific Railroad Company

BOISE, IDAHO  83720-00741416 Dodge Street, Rm. 830

Omaha, NE  68179-0001

Street Address for Express Mail:FAX (402) 271-5610

472 W WASHINGTON ST

BOISE, IDAHO  83702-5983

These comments should contain the case caption and case number shown on the first page of this document.

YOU ARE FURTHER NOTIFIED that if no written comments are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing.  If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that the Application together with supporting workpapers and exhibits have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq.

O R D E R

IT IS HEREBY ORDERED that given the expedited nature of this proceeding before the Surface Transportation Board, there is good cause to set this matter for comment on less than twenty-one (21) days notice.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of September 1996.

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/N:UP-RR-96-2.sh

**FOOTNOTES**

1:

1The rail abandonment duties formally exercised by Interstate Commerce Commission (ICC) were reassigned to the Surface Transportation Board (STB) in the ICC Termination Act of 1995, Public Law 104-88.  This Law abolished the ICC and established the STB within the U.S. Department of Transportation.  Regulations previously issued by the ICC were continued pursuant to 61 Fed.Reg. 1842 (January 24, 1996).

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

September 11, 1996