DECISION MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

MYRNA WALTERS

TONYA CLARK

DON HOWELL

GARY RICHARDSON

WORKING FILE (Pat)

FROM:BRAD PURDY

RON LAW

DATE:DECEMBER 20, 1995

RE:CASE NO. UP-RR-95-2; UNION PACIFIC’S PROPOSED ABANDONMENT OF THE EMMETT BRANCH

On December 6, 1995, Union Pacific gave formal notice to the Commission that it intended to file an “out-of-service exemption” to abandon trackage between Mile Post 7 at Madden’s and Mile Post 24 at Emmett with the Interstate Commerce Commission (ICC) in the near future.  The brief letter of Union Pacific states that “the abandonment will have no affect on shippers.”

Staff has conducted a preliminary investigation into this matter and has determined that there currently are no shippers using this line and there appears to be no interest for its use in the future.  Staff is aware of no parties who oppose the abandonment.

Idaho Code § 62-424 states that “whenever any railroad proposes to abandon any branch line or main line now in operation within the state of Idaho,” the public utilities commission “shall schedule a public hearing on the proposed abandonment” to determine whether [1] it would adversely affect the area then being served, [2] 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 [3] that the line has potential for profitability.

Idaho Code § 62-424 does not define the term “public hearing.”  Considering that no parties oppose the abandonment and it is quite unlikely that anyone would actually attend a formal hearing if one were conducted, and based further upon the Commission’s past practice in handling similar cases, it would appear that the Commission has the option of conducting the hearing through the solicitation of written comments under Modified Procedure.

Commission Decision

Does the Commission wish to handle this matter under Modified Procedure?  If not, would the Commission like to schedule a formal hearing?

Brad Purdy

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