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SEC

SERVICE DATE – FEBRUARY 22, 2008

SURFACE TRANSPORTATION BOARD

NOTICE

STB Ex Parte No. 677

COMMON CARRIER OBLIGATION OF RAILROADS

AGENCY: Surface Transportation Board.

ACTION: Notice of Public Hearing.

SUMMARY: The Surface Transportation Board will hold a public hearing beginning at 9:00 a.m. on Thursday, April 24, 2008, at its headquarters in Washington, DC. The purpose of the public hearing will be to examine issues related to the common carrier obligation of railroads. Persons wishing to speak at the hearing should notify the Board in writing.

DATES: The public hearing will take place on Thursday, April 24, 2008. Any person wishing to speak at the hearing should file with the Board a written notice of intent to participate, and should identify the party, the proposed speaker, the time requested, and the topic(s) to be covered, as soon as possible but no later than March 25, 2008. Each speaker should also file with the Board his or her written testimony by April 17, 2008. Written submissions by interested persons who do not wish to appear at the hearing will also be due by April 17, 2008.

ADDRESSES: All notices of intent to participate and testimony may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the Board's "www.stb.dot.gov" website, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send an original and 10 copies of the filing to: Surface Transportation Board, Attn: STB Ex Parte No. 677, 395 E Street, S.W., Washington, DC 20423-0001.

FOR FURTHER INFORMATION, CONTACT: Joseph H. Dettmar, (202) 245-0395.
[Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877-8339.]

SUPPLEMENTARY INFORMATION: The common carrier obligation refers to the statutory duty of railroads to provide "transportation or service on reasonable request." 49 U.S.C. 11101(a). A railroad may not refuse to provide service merely because to do so would be inconvenient or unprofitable. G.S. Roofing Prods. Co. v. Surface Transp. Bd., 143 F.3d 387, 391 (8th Cir. 1998). The common carrier obligation, however, is not absolute, id., and service requests must be reasonable. See 49 U.S.C. 11101(a). In recent years, the Board has seen an increasing number of questions arising, both formally and informally, regarding the extent of a

railroad's common carrier obligation. As a result, this hearing seeks to highlight the importance of the common carrier obligation, to provide a better understanding of it, and to assist the Board in its monitoring and compliance work.

The hearing will focus on various topics related to the extent of the common carrier obligation, including, but not limited to: (1) service limitation resulting from a capacity constrained environment; (2) cost and safety issues related to the transportation of hazardous materials, especially toxic inhalation hazards; (3) carrier-imposed requirements for infrastructure investments by shippers; (4) the impact of volume requirements or incentives; (5) economically motivated service reductions and metering of the demand for service; (6) the proper use of rail embargoes; (7) when it becomes necessary to obtain abandonment authorization; and (8) to whom does the common carrier obligation apply. The hearing will also address the role of the Board's Office of Compliance and Consumer Assistance in ensuring that carriers meet their common carrier obligation.

Date of Hearing. The hearing will begin at 9:00 am on Thursday, April 24, 2008, in the 1st floor hearing room at the Board's headquarters at 395 E Street, S.W., in Washington, DC, and will continue until every person scheduled to speak has been heard.

Notice of Intent To Participate. Any person wishing to speak at the hearing should file with the Board a written notice of intent to participate, and should identify the party, the proposed speaker, the time requested, and topic(s) to be covered, as soon as possible, but no later than March 25, 2008.

Testimony. Each speaker should file with the Board his or her written testimony by April 17, 2008. Also, any interested person who wishes to submit a written statement without appearing at the April 24 hearing should file that statement by April 17, 2008.

Board Releases and Live Audio Available Via the Internet. Decisions and notices of the Board, including this notice, are available on the Board's website at "www.stb.dot.gov." This hearing will be available on the Board's website by live video streaming. To access the hearing, click on the "Live Video" link under "Information Center" at the left side of the home page beginning at 9:00 a.m. on April 24, 2008.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Dated: February 21, 2008.

Anne K. Quinlan
Acting Secretary