Department of Justice

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FRIDAY, APRIL 12, 1996

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JUSTICE DEPARTMENT HAS ANTITRUST CONCERNS ABOUT UNION PACIFIC/SOUTHERN PACIFIC RAILROAD MERGER

ANTITRUST DIVISION FILES PRELIMINARY COMMENTS WITH THE SURFACE TRANSPORTATION BOARD

WASHINGTON, D.C. -- The Justice Department's Antitrust Division today said that the Union Pacific Corp./Southern Pacific Rail Corp. proposed merger raises significant competitive concerns in a large number of markets throughout the West and may result in price increases to shippers and consumers of roughly $800 million. The volume of commerce affected is more than $6 billion.

The Department, in comments filed with the Surface Transportation Board, said that the proposed deal would adversely affect a large number of markets throughout the West where the number of possible rail carrier competitors would decline from two to one or from three to two.

"The Department is concerned that this transaction will create monopolies or duopolies for crucial transportation services that industries and consumers depend upon throughout the U.S.," said Anne K. Bingaman, Assistant Attorney General in charge of the Department's Antitrust Division. "Only through competition can consumers be assured of the best price," Bingaman added.

The Department said that Union Pacific and Southern Pacific railroad systems have significant overlaps, including lines through the Central Corridor--which stretches between northern California through Salt Lake City and Denver to Kansas City, Missouri--and lines running from Texas through Little Rock, Arkansas, and Memphis, Tennessee, to St. Louis and Chicago. The two railroads compete for significant amounts of traffic in a large number of markets, and in some places where they compete, are the only rail carriers providing service.

The remedy proposed by the two parties--an agreement to grant more than 3,800 miles of trackage rights to Burlington Northern/Santa Fe--appears to be inadequate to prevent rate increases in markets where the number of rail carrier competitors would decline from two to one, and does not remedy the effects of the transaction in markets where the number of competitors would decline from three to two, the Department said.

The affected markets involve commodities such as wood and agricultural products, iron and steel, plastics and intermodal traffic, moving in hundreds of corridors throughout the West. The total volume of traffic where the number of competitors decline from two to one is more than $1.5 billion. In markets where the number of competitors decline from three to two, the total volume of traffic is more than $4.75 billion.

The Department said that the agreement with Burlington Northern/Santa Fe is unlikely to ensure effective competition because Burlington Northern/Santa Fe would have to pay Union Pacific/Southern Pacific an excessive compensation rate for trackage rights, the agreement gives inadequate guarantees to ensure Burlington Northern/Santa Fe's service quality and other factors exist that reduce Burlington Northern/Santa Fe's incentive to compete using the trackage rights.

The Department said that Union Pacific and Southern Pacific's claimed efficiencies appear to be vastly overstated and insufficient to outweigh the probable rate increases. The Department also said that Southern Pacific is likely to survive for the foreseeable future and remain a significant competitor.

Union Pacific, based in Bethlehem, Pennsylvania and Southern Pacific based in San Francisco, are two of only three major railroads in the western half of the United States. Union Pacific operates about 22,000 miles of track and Southern Pacific about 16,700.

Union Pacific's 1995 revenues total about $7.5 billion. Southern Pacific's 1995 revenues total about $3.2 billion. The merger would create the largest U.S. railroad in terms of physical size and revenues

The Department will file its final brief to the Surface Transportation Board on June 3, 1996. The Department is participating as a full party in this proceeding.

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