and their allotted times, by October 16, 1997. Speakers' written statements must be filed with the Board by October 23, 1997.

ADDRESSES: Send requests to speak and requested time allotments (an original and 10 copies) referring to STB Ex Parte No. 573 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: The Surface Transportation Board (Board) is instituting a proceeding on its own motion and will hold a public hearing beginning at 10:00 a.m., on October 27, 1997, at its offices at 1925 K Street, N.W., Washington, DC, to provide an opportunity for interested persons, including carriers, shippers, and employees, to report on the status of rail service in the western United States and to review proposals for solving service problems. The Board has been made aware of railroad service problems in this area of the country [recently involving the Union Pacific Railroad Company/Southern Pacific Transportation Company (UP/SP)] through formal filings and public accounts, and, more recently, through informal communications between affected persons and the Board's Office of Compliance and Enforcement (OCE) about specific UP/SP service problems, which OCE has worked with UP/SP to resolve. Based on this information, we believe it is appropriate to hold a public hearing on the issue of rail service in the western part of the country, problems in the delivery of that service, and solutions, both governmental and non-governmental, that have been offered or might be offered to remedy these service problems. The focus of this proceeding is on the immediate resolution of existing problems.

This proceeding and this public hearing are being conducted separate and apart from the ongoing oversight proceeding in *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company,* STB Finance Docket No. 32760 (Sub-No. 21). There, the focus is on whether the conditions we imposed in approving the application in Finance Docket No. 32760 have been successful in resolving the competitive problems that we found would exist as a result of our approval of the UP/SP control transaction in the absence of those conditions. Parties to the oversight proceeding have, however, commented on service problems on the UP/SP system, and both UP/SP and The Burlington Northern and Santa Fe Railway Company, in their most recent quarterly reports, filed October 1, 1997, in the oversight proceeding, have separately put forth proposals that, in their view, would lead to a resolution of the existing service problems. Given the immediacy of these service problems and the national, as well as regional, interest in their resolution, we are instituting this proceeding to focus specifically on the rail service problems that have arisen in the western part of the country.[1]

We encourage interested persons to coordinate the presentation of their points of view by selecting of a single individual to appear at the hearing on behalf of their common interests so that the opportunity for input at the hearing can be maximized. Persons wishing to appear and make a statement at the hearing should submit a request for time to speak on or before October 9, 1997. The Board notes that, in the interest of a focused hearing, it must necessarily limit the number of persons allowed to speak. At this hearing, we intend to concentrate more on operational, resource, and customer service matters than on legal issues, and it would be helpful if speakers are individuals who are able to address such matters. The Board will issue a schedule for the October 27, 1997 hearing, along with a list of speakers and their allotted times, by October 16, 1997. Speakers' written statements of their presentations must be filed with the Board by October 23, 1997.

Notice of the October 27, 1997 hearing will be published in the **Federal Register**.

Decided: October 2, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26579 Filed 10–6–97; 8:45 am]

BILLING CODE 4915–00–U

[1] To ensure that all parties to the oversight proceeding are aware of the proceeding we are instituting by this notice, we will serve a copy of this notice on all parties on the service list in the oversight proceeding.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33469]

Application of the National Railroad Passenger Corporation Under 49 U.S.C. 24308(a)—Union Pacific Railroad Company and Southern Pacific Transportation Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Order and request for comments.

SUMMARY: The Board is seeking comments from interested persons on the application of the National Railroad Passenger Corporation (Amtrak) under 49 U.S.C. 24308(a), formerly section 402(a) of the Rail Passenger Service Act (the Act), for an order determining under the law the nature and extent of the duty of the Union Pacific Railroad Company (UP) and its affiliate, Southern Pacific Transportation Company (SP) (collectively, UP/SP), to allow Amtrak to use UP/SP's tracks and facilities for the carriage of express. The Board is also ordering UP/SP to continue to make its tracks and facilities available to Amtrak, as directed herein, while this proceeding is pending.

DATES: Written notices of intent to participate are due by October 14, 1997. Shortly thereafter, we will serve a preliminary service list and request for written corrections. By October 31, 1997, we will serve any necessary corrections to the service list. Opening comments are due by November 10, 1997. Reply comments are due by November 25, 1997.

ADDRESSES: Send an original and 10 copies of notices of intent to participate and comments, referring to ''STB Finance Docket No. 33469,'' to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423. Opening and reply comments must be served on the persons identified as ''parties of record'' on the service list.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: This proceeding raises questions about the definition of ''express'' traffic and the extent to which freight railroads are required to allow Amtrak to use their facilities to carry express. Freight railroads must permit Amtrak to operate over their lines. The provisions of 49 U.S.C. 24305(a)(1) and 24305(c)(2) authorize Amtrak to operate intercity

and commuter rail passenger transportation and to transport mail and express. In addition, the provisions of 49 U.S.C. 24306(a) and 24101(c)(1)(B) direct Amtrak to seek to increase its revenues from the transportation of mail and express. The statute, however, does not define ''express.''

Historically, in addition to its passenger service, Amtrak has carried what it and UP/SP appear to agree is express traffic. In recent months, however, Amtrak has taken steps that it indicates are necessary to improve its financial condition by carrying additional volumes of freight that it describes as express. Amtrak's financial condition is well known.

UP/SP has resisted Amtrak's efforts to expand its freight operations. UP/SP's position is that the type of traffic that Amtrak contemplates now handling falls into the category of general freight rather than express as intended under the law. UP/SP also argues that the expanded freight operations that Amtrak contemplates would create operational and logistical problems for the railroads over whose tracks Amtrak operates, as well as the towns and cities through which Amtrak operates. The recent operational difficulties that have been experienced by UP/SP are well known, as are the concerns of many towns and cities about train traffic in general.

Because Amtrak and UP/SP could not resolve the issue privately, by application filed September 16, 1997, under 49 U.S.C. 24308(a), formerly section 402(a) of the Act,[1] Amtrak seeks an order that: (1) requires UP/SP to continue to make available to Amtrak the facilities necessary for it to continue to transport express on its trains while this proceeding is pending; and (2) establishes a procedural schedule ''leading ultimately to entry of a final order determining that Amtrak's transport of express traffic is necessary to carry out the purposes of the Act, and requiring UP/SP to make available to Amtrak the facilities and services needed to allow Amtrak trains to transport express.''

In its application, Amtrak states that its existing general agreement governing its relationship with UP/SP, which was scheduled to expire on September 30, 1997, has been extended through October 31, 1997. However, Amtrak asserts, UP/SP is unwilling to extend beyond September 30, 1997, a ''provision in Amtrak's agreements with UP/SP that gives Amtrak the right to carry express on Amtrak's trains to the extent authorized by the Act.''

UP/SP filed a reply on September 23, 1997. In its reply, UP/SP takes issue with Amtrak's contentions that the freight operations that Amtrak contemplates are operationally feasible, and that they are consistent with the express service provisions of the Act. UP/SP states in that reply that it does not object to entry of an order preserving the status quo while Amtrak's application is being reviewed, as long as the order does not allow Amtrak to effect a ''blanket authorization for unlimited expansion of its commodity-hauling operation.''

On September 26, 1997, Amtrak sought leave to file a tendered response to UP/SP's reply, which UP/SP has opposed. Amtrak asserts that it should be permitted to file the response because it could not have reasonably anticipated the arguments that UP/SP would be advancing in its reply. We do not find that assertion credible; indeed, given the extensive relief that Amtrak has sought, UP/SP's reply raises the types of arguments we would have expected it to present. Nevertheless, we will accept and consider Amtrak's response, and UP/SP's opposition to it, in the interest of developing a complete record.

Discussion and Conclusions

Under 49 U.S.C. 24308(a)(2), we have authority to prescribe the terms and compensation for Amtrak's use of facilities owned by, or receipt of services to be provided by, freight railroads in connection with Amtrak's operation over their track, if (1) the parties cannot agree and (2) such prescription is necessary to carry out the purposes of the Act. Here, it is apparent that the parties cannot agree, as Amtrak has asked us to declare the nature and extent of UP/SP's duty to make its facilities available to Amtrak for the carriage of express, which is an important issue that bears on the fundamental purposes of the Act.

Accordingly, we are commencing a proceeding to resolve this dispute.[2] Because of the potentially broad impact of any ruling that we might issue in this matter, we are publishing this notice in the **Federal Register** soliciting comments from persons that may be affected: other railroads and railroad employees, potential users, and, particularly insofar as operational matters are concerned, cities and towns and the Secretary of Transportation.

As noted, this dispute revolves around the meaning of the statutory term ''express'' in the Act, and whether there are limits on the type and quantity of freight traffic that Amtrak may carry consistent with the statutory authorization to carry express. Amtrak argues that there are no ''defined limits'' to its authority to transport express (Response at 2),[3] and that UP/SP is improperly taking the position that: (1) The Act does not give Amtrak the right to transport carload or truckload shipments of express; (2) certain commodities transported by Amtrak do not constitute express;[4] and (3) Amtrak may be subjected to overall footage limits on individual trains carrying express cars.

UP/SP argues that Amtrak's efforts to solicit carload traffic (such as carloads of beer), and to expand considerably the length of its trains, are inconsistent with the statutory intent that transportation of mail and express traffic be ancillary to Amtrak's provision of passenger service. UP/SP also argues that expansion of Amtrak's non-passenger services would produce serious operational and logistical problems at the various cities and towns through which UP/SP operates.[5]

Commenters should address these issues. In addition to the operational concerns and the commodity/train length issues raised by UP/SP, commenters should address the legislative intent in enacting the Act, and, in particular, the extent to which Congress intended that Amtrak's express services be ancillary to its passenger services. We must note that we expect all commenters to express their fully developed positions in their opening comments, and not to back-load their filings by reserving their major points to their reply comments.

Amtrak has asked us that, while this proceeding is pending, we issue an interim order that will require UP/SP to

[1] Section 402(a) was originally codified at 45 U.S.C. 562(a). In Pub. L. No. 103–272, 108 Stat. 745, enacted on July 5, 1994, section 402(a) was recodified in its present form as 49 U.S.C. 24308(a). In section 205 of the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, enacted December 29, 1995, references to the ''Interstate Commerce Commission'' in this and other statutory provisions were replaced with references to the Surface Transportation Board.

[2] After we resolve this matter, we may also be called upon to address other issues relating to the facilities that UP/SP must provide to Amtrak, such as the incremental cost of access and the terms of payment. At this point, however, we are focusing only on the narrow issue raised. We expect that any final compensation methodology that we may prescribe would be made retroactive to October 1, 1997.

[3] Amtrak asserts that passenger trains historically operated ''with 30 to 40 mail and express cars,'' and that, ''As recently as 1959, intercity passenger trains derived as much as 46% of their revenue from mail and express. * * *''

[4] Amtrak asserts that Board precedent does not limit the commodities that can qualify as express.

[5] In its response, Amtrak asserts that its anticipated expansion of operations will not produce operational problems.

continue to make its facilities available to Amtrak for handling express traffic so that Amtrak will be able ''to continue to serve shippers for whom it currently transports both carload and other shipments, and for whom it has commitments to do so after October 1.'' Amtrak's objective is to expand its freight business so that it can obtain increased revenues during the pendency of the proceeding. In its application, Amtrak indicates that it wants us to facilitate this objective by preserving the status quo, which, in Amtrak's view, means accepting its position that there are not and have never been any limits on its authority to carry what it determines to be express. Response at 5–6.[6] In its response, Amtrak indicates that it will accept an interim 18-car train limit on the number of cars in its trains, on the ground that UP/SP has already agreed that 18-car trains are operationally feasible and have been typically operated in the past. In its most recent filing, UP/SP disputes Amtrak's statements about the feasibility of 18-car trains at certain locations, such as Reno, Nevada, and Oakland, California.

We cannot, in an interim order, direct UP/SP to allow Amtrak access for whatever traffic Amtrak declares is express. The limits on Amtrak's freight traffic authority are precisely what we are being asked to resolve in the case, and that is the issue on which we are now seeking public comment. Typically in these proceedings,[7] we require that the parties maintain the status quo pending our resolution of the matter. However, because of the variety of potential combinations in the Amtrak operations that have been or might have been conducted in the past at each of the numerous stations that Amtrak serves (regarding, for example, train consist issues), an order simply directing the parties to maintain the ''factual'' status quo would likely produce uncertainty and continued litigation. Therefore, we will establish a numerical equipment limitation for the interim that appears to be consistent with the representations of both parties. Except where it is operationally infeasible, UP/SP generally may not limit Amtrak's access to less than 18 cars. Consistent with Amtrak's representation that it does not need to operate more than 600 feet of express cars during the interim period, however, UP/SP may limit Amtrak to 9 express cars per train. Thus, the trains that UP/SP must permit Amtrak to operate over UP/SP's lines may be as long as 18 cars, and may contain as many as 9 express cars. This interim order, we stress, is not intended to prejudge, in any way, the matters on which we have sought comment, but is simply designed as a practical solution while the case is pending.

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

It is ordered:

1. On or after September 30, 1997, UP/SP will preserve on an interim basis the current provisions in the parties' agreement governing express and the practices thereunder as provided in this decision and will provide services, tracks, and facilities to Amtrak in accordance with those provisions and practices.

2. A proceeding is instituted to investigate the extent of UP/SP's obligation under the Act to allow Amtrak to use UP/SP's lines and facilities for the carriage of express.

3. Commenters shall comply with the procedural schedule set out earlier.

4. Amtrak's request for leave to file its response is granted.

5. This decision is effective on its date of service.

Decided: September 29, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26541 Filed 10–6–97; 8:45 am]

BILLING CODE 4915–00–P

[6] In support of its argument that the Board must order UP/SP to open its facilities, on an interim basis, to whatever Amtrak decides to characterize as express, Amtrak states that it has already purchased or committed to obtain additional equipment, and has entered into agreements with customers to carry additional freight. The Board notes in this regard that any party that takes action assuming in advance that a difficult legal issue will be resolved in its favor assumes whatever risks are associated with such action.

[7] *See Application of the National Railroad Passenger Corp. Under 49 U.S.C. 24308(a)—Order to Require Service and Set Compensation Terms,* STB Finance Docket No. 32911 (STB served Apr. 30, 1996).

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 29, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0052.

Form Number: IRS Forms 990–PF and 4720.

Type of Review: Extension.

Title: Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation (990–PF); and Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code (4720).

Description: Internal Revenue Code (IRC) section 6033 requires all private foundations, including section 4947(a)(1) trusts treated as private foundations, to file an annual information return. Section 53.4940–1(a) of the Income Tax Regulations requires that the tax on net investment income be reported on the return filed under section 6033. Form 990-PF is used for this purpose. Section 6011 requires a report of taxes under Chapter 42 of the Code for prohibited acts by private foundations and certain related parties. Form 4720 is used by foundations and/or persons to report prohibited activities in detail and pay the tax on them.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 52,214.

Estimated Burden Hours Per Respondent/Recordkeeper: