

rights to be acquired by a profitable railroad operating in the region over specified rail properties to be acquired by the Corporation, where such designation does not (1) authorize such profitable railroad to interchange traffic with at least one railroad, or (2) provide for the connection of portions of such profitable railroad's rail properties, and where the transfer of ownership of such rail properties (including trackage rights) to such profitable railroad was recommended in the preliminary system plan, and the Commission has made a determination with respect thereto, in accordance with subsection (d)(3) of this section, shall be deemed to authorize such profitable railroad to interchange traffic with the Corporation and any other profitable railroad connecting with such specified rail properties.

(Pub. L. 93-236, title II, §206, Jan. 2, 1974, 87 Stat. 994; Pub. L. 94-5, §2(b), Feb. 28, 1975, 89 Stat. 7; Pub. L. 94-210, title VI, §607(e)-(j), (o)-(q), title VIII, §807, Feb. 5, 1976, 90 Stat. 96-98, 143; Pub. L. 94-436, §§2, 4, Sept. 30, 1976, 90 Stat. 1398; Pub. L. 94-555, title II, §202(a), (c), Oct. 19, 1976, 90 Stat. 2616, 2617; Pub. L. 95-611, §4(a), Nov. 8, 1978, 92 Stat. 3090.)

Editorial Notes

REFERENCES IN TEXT

Clean Air Act Amendments of 1970, referred to in subsec. (a)(6), mean Pub. L. 91-604, Dec. 31, 1970, 84 Stat. 1676. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 7401 of Title 42, The Public Health and Welfare, and Tables.

Section 712(b) of this title, referred to in subsec. (b), which related to additional duties of the Association, was repealed and section 712(c) of this title was redesignated section 712(b) by Pub. L. 97-35, title XI, §1148(a), Aug. 13, 1981, 95 Stat. 674.

Section 714 of this title, referred to in subsec. (b), was omitted from the Code.

Subchapter III of chapter 113 of title 49, referred to in subsec. (d)(3), was omitted in the general amendment of subtitle IV of Title 49, Transportation, by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804. Previously, in subsec. (d)(3), "subchapter III of chapter 113 of title 49" was substituted for "section 5 of part I of the Interstate Commerce Act (49 U.S.C. 5)" on authority of Pub. L. 95-473, §3(b), Oct. 17, 1978, 92 Stat. 1446, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49.

Sections 762 and 763 of this title, referred to in subsec. (g), were repealed by Pub. L. 94-210, title VIII, §806, Feb. 5, 1976, 90 Stat. 143, eff. Apr. 1, 1978.

AMENDMENTS

1978—Subsec. (d)(5)(C). Pub. L. 95-611 substituted "3 years" for "900 days".

1976—Subsec. (c)(1)(A). Pub. L. 94-210, §607(g), inserted proviso relating to notice by the Corporation to the Association.

Subsec. (c)(1)(B). Pub. L. 94-210, §607(f), inserted provision relating to alternative designations to be made under this paragraph.

Subsec. (c)(1)(D). Pub. L. 94-210, §607(j), designated existing provision as cl. (i) and added cl. (ii).

Subsec. (c)(2). Pub. L. 94-210, §607(h), inserted provision relating to sale of designated properties to a subsidiary of the Corporation.

Subsec. (d)(1). Pub. L. 94-210, §607(i), inserted "or any subsidiary thereof" after "Corporation" wherever appearing.

Subsec. (d)(3). Pub. L. 94-210, §607(e), inserted provisions relating to correction to the preliminary system

plan published in 40 Fed. Reg. 16377, determinations made with respect to such correction by the Commission, and determinations made with respect to acquisitions referred to in any supplement to the preliminary system plan.

Subsec. (d)(4). Pub. L. 94-210, §607(o), inserted provision relating to modification of offer until the date of acceptance, and substituted "95" for "60" and "7 days after February 5, 1976," for "30 days after the effective date of the final system plan".

Subsec. (d)(5). Pub. L. 94-555, §202(a), inserted "or for purposes of providing rail marine freight floating service" after "intercity rail passenger service".

Pub. L. 94-436, §2, inserted provision relieving the Corporation, its Board of Directors, and its individual directors from liability to any party by reason of the fact that the Corporation transferred property pursuant to section 743 of this title.

Pub. L. 94-210, §807, restructured provisions and substituted provisions relating to valuation of transferred properties transferred by the Corporation and adjustment of such valuation, for provisions relating to valuation of transferred properties sold by the Corporation.

Subsec. (d)(6). Pub. L. 94-210, §607(p), added par. (6).

Subsec. (d)(7). Pub. L. 94-555, §202(c), inserted "by the Corporation pursuant to the final system plan" after "with respect to the acquisition".

Pub. L. 94-436, §4, added par. (7).

Subsec. (j). Pub. L. 94-210, §607(q), added subsec. (j).

1975—Subsec. (a)(1). Pub. L. 94-5 inserted "and express" after "rail".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-611, §4(b), Nov. 8, 1978, 92 Stat. 3090, provided that: "The amendment made by this Act [probably meaning this section 4, which amended section 716 of this title] shall be effective on January 2, 1974."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Application of National Environmental Policy Act to actions of Commission not affected by title VI of Pub. L. 94-210, see section 619 of Pub. L. 94-210, set out as a note under section 791 of this title.

§ 717. Adoption of final system plan

(a) Preliminary system plan

(1) Within 420 days after January 2, 1974, the Association shall adopt and release a preliminary system plan prepared by it on the basis of reports and other information submitted to it by the Secretary, the Office, and interested persons

in accordance with this chapter and on the basis of its own investigations, consultations, research, evaluation, and analysis pursuant to this chapter. Copies of the preliminary system plan shall be transmitted by the Association to the Secretary, the Office, the Governor and public utility commission of each State in the region, the Congress, each court having jurisdiction over a railroad in reorganization in the region, the special court, and interested persons, and a copy shall be published in the Federal Register. The Association shall invite and afford interested persons an opportunity to submit comments on the preliminary system plan to the Association within 60 days after the date of its release.

(2) The Office is authorized and directed to hold public hearings on the preliminary system plan and to make available to the Association a summary and analysis of the evidence received in the course of such proceedings, together with its critique and evaluation of the preliminary system plan, not later than 60 days after the date of release of such plan. The Office is authorized to hold public hearings on any supplement to the preliminary system plan and to make available to the Association a summary and analysis of the evidence received in the course of such proceedings, together with its critique and evaluation of such supplement, not later than 30 days after the release of such supplement.

(b) Approval

(1) Within 120 days after January 2, 1974, each United States district court or other court having jurisdiction over a railroad in reorganization shall decide whether the railroad is reorganizable on an income basis within a reasonable time under section 77 of the Bankruptcy Act and that the public interest would be better served by continuing the present reorganization proceedings than by a reorganization under this chapter. Within 60 days after the submission of the report by the Office, under section 715(d)(1) of this title, on the Secretary's report on rail services in the region, each United States district court or other court having jurisdiction over a railroad in reorganization shall decide whether or not such railroad shall be reorganized by means of transferring some of its rail properties to the Corporation pursuant to the provisions of this chapter. Because of the strong public interest in the continuance of rail transportation in the region pursuant to a system plan devised under the provisions of this chapter, each such court shall order that the reorganization be proceeded with pursuant to this chapter unless it (1) has found that the railroad is reorganizable on an income basis within a reasonable time under section 77 of the Bankruptcy Act and that the public interest would be better served by such a reorganization than by a reorganization under this chapter, or (2) finds that this chapter does not provide a process which would be fair and equitable to the estate of the railroad in reorganization in which case it shall dismiss the reorganization proceeding. If a court does not enter an order or make a finding as required by this subsection, the reorganization shall be proceeded with pursuant to this chap-

ter. An appeal from an order made under this section may be made only to the special court. Appeal to the special court shall be taken within 10 days following entry of an order pursuant to this subsection, and the special court shall complete its review and render its decision within 80 days after such appeal is taken. There shall be no review of the decision of the special court.

(2) Whenever it has been finally determined pursuant to the procedures of paragraph (1) of this subsection, that the reorganization of a railroad subject to reorganization under section 77 of the Bankruptcy Act shall not be proceeded with pursuant to this chapter, the court having jurisdiction over such railroad may, upon a petition which is filed within 10 days after February 28, 1975, by the trustees of such railroad, reconsider such order. Such reorganization court shall (i) affirm its previous order or (ii) issue an order that the reorganization of such railroad be proceeded with pursuant to this chapter unless it finds that this chapter does not provide a process which would be fair and equitable. The provisions of paragraph (1) of this subsection are applicable in such reconsideration, except that (A) such reorganization court shall make its decision within 30 days after such petition is filed, and (B) any decision by the special court on appeal from such a decision shall be rendered within 30 days after such reorganization court decision is made. There shall be no review of the decision of the special court. The Association shall take any steps it finds necessary, consistent with time limitations and other provisions of this chapter, to effectuate the consequences of such a revised order, including the preparation and submission of any necessary or appropriate supplements to the preliminary system plan.

(c) Adoption

Within 540 days after January 2, 1974, the executive committee of the Association shall prepare and submit a final system plan for the approval of the Board of Directors of the Association. A copy of such submission shall be simultaneously presented to the Commission. The submission shall reflect evaluation of all responses and summaries of responses received, testimony at any public hearings, and the results of additional study and review. Within 30 days thereafter, the Board of Directors of the Association shall by a majority vote of all its members approve a final system plan which meets all of the requirements of section 716 of this title.

(d) Review of Commission

Within 30 days following the adoption of the final system plan by the Association under subsection (c) of this section and the submission of such plan to Congress under section 718(a) of this title, the Commission shall submit to the Congress an evaluation of the final system plan delivered to both Houses of Congress.

(Pub. L. 93-236, title II, §207, Jan. 2, 1974, 87 Stat. 998; Pub. L. 93-488, §1(a), (b), Oct. 26, 1974, 88 Stat. 1464; Pub. L. 94-5, §4, Feb. 28, 1975, 89 Stat. 7.)

Editorial Notes

REFERENCES IN TEXT

Section 77 of the Bankruptcy Act, referred to in subsec. (b)(1), (2), was classified to section 205 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§1161 et seq.) of chapter 11 of Title 11.

Section 715(d)(1) of this title, referred to in subsec. (b)(1), is a reference to section 715(d)(1) prior to amendment by Pub. L. 94-210. Section 715 was repealed by Pub. L. 95-473, §4(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49, Transportation.

AMENDMENTS

1975—Subsec. (a)(2). Pub. L. 94-5, §4(b), inserted provisions authorizing the Office to hold public hearings on supplements to the preliminary system plan and to make available to the Association a summary and analysis of the evidence received in the course of such proceedings, together with its critique and evaluation of the supplement not later than 30 days after the release of the supplement.

Subsec. (b). Pub. L. 94-5, §4(a), designated existing provisions as par. (1) and added par. (2).

1974—Subsec. (a)(1). Pub. L. 93-488, §1(a), substituted “420” for “300”.

Subsec. (c). Pub. L. 93-488, §1(b), substituted “540” for “420”.

Statutory Notes and Related Subsidiaries

ABOLITION OF SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

§ 718. Review by Congress**(a) General**

The Board of Directors of the Association shall deliver the final system plan adopted by the Association to both Houses of Congress and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. The final system plan shall be deemed approved at the end of the first period of 60 calendar days of continuous session of Congress after such date of transmittal unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the final system plan.

(b) Revised plan

If either the House or the Senate passes a resolution of disapproval under subsection (a) of this section, the Association, with the cooperation and assistance of the Secretary and the Office, shall prepare, determine, and adopt a revised final system plan. Each such revised plan shall be submitted to Congress for review pursuant to subsection (a) of this section.

(c) Computation

For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(d) Additions

(1) The supplemental report, dated September 18, 1975, to the final system plan, and the provisions of the Association's official errata supplement to the final system plan, dated December 1, 1975, including all designations made therein, shall be treated for all purposes as if they had been part of and included in the final system plan adopted by the Association and reviewed by the Congress. The final system plan shall, for all purposes, be deemed to be approved as modified and amended by such supplemental report and such supplement.

(2) The Association may, upon petition of any State, modify the final system plan to make further designations with respect to rail properties of railroads in reorganization in the region designated for transfer to the Corporation under such plan, if such designations (A) are likely to result in improved rail service on such rail properties and connecting rail properties, and (B) would not materially impair the profitability of the Corporation. Such designations, including designations of such rail properties to a State, a profitable railroad, or a responsible person, may be made at any time prior to delivery of the final system plan to the special court under section 719(c) of this title. Such further designations shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress, and the final system plan shall for all purposes be deemed to be approved as modified by such designations. Any action of the Association with respect to any such petition shall not be subject to review by any court.

(3)(A) Within 20 days after February 5, 1976, the Association may, by notice to the Congress and by publication in the Federal Register, modify, supplement, or add to the designations of rail properties in the final system plan if the Association finds such actions are necessary to—

(i) achieve the efficient implementation of the final system plan, or

(ii) provide for the offer to profitable railroads of rail properties designated in the final system plan to the Corporation, if such properties are not essential in the operation of other rail properties of the Corporation but are or would be integrally related to the operation of rail properties of (or which are offered pursuant to the final system plan to) such profitable railroad, or