first find that the rail carrier has market dominance over the traffic to which the rate applies, that is, that there is no effective competition for that traffic. In making that determination, we now consider four forms of competition that may effectively constrain the carrier's pricing: *intramodal competition* (whether the shipper could obtain the transportation service that it needs from other railroads); *intermodal competition* (whether the shipper could obtain service by another transportation mode); *product competition* (whether the shipper can use a suitable substitute product that can be acquired without relying on the services of the same carrier); and *geographic competition* (whether the shipper can obtain the product it needs from a different source and/or by shipping its goods to a different destination using another carrier). Shippers have the burden of showing that there is no effective intramodal and intermodal competition; carriers have the burden of identifying any product and geographic competition and showing its effectiveness.

At the Ex Parte 575 hearings, shippers complained about the difficulties associated with seeking rate relief from the Board today, particularly the complexity and burden of litigating issues of product and geographic competition, issues that they charge have transformed the threshold market dominance phase of a rail rate complaint into a full-blown antitrust-style case of its own. Shippers regard product and geographic competition issues as major, undue litigation obstacles that discourage captive shippers from even seeking regulatory relief from unreasonably high rates in both large and small rates cases. Accordingly, consistent with our determination in Ex Parte 575 to reexamine certain aspects of our current regulatory regime in the context of today's more consolidated rail industry—particularly those that concern the availability of regulatory relief—we are instituting this proceeding to consider eliminating product and geographic competition from our market dominance analysis.

We note that our predecessor, the Interstate Commerce Commission (ICC), initially concluded that consideration of product and geographic competition issues would complicate rate proceedings unduly. *Special Procedures for Making Findings of Market Dominance,* 353 I.C.C. 875, 905–06, *modified,* 355 I.C.C. 12 (1976) (*Market Dominance I*), *aff'd in relevant part sub nom. Atchison, T. & S.F. Ry.* v. *ICC,* 580 F.2d 623 (D.C. Cir. 1978). The ICC subsequently reversed course and decided that consideration of these issues would be manageable. *Market Dominance Determinations,* 365 I.C.C. 118, 127–31 (1981) (*Market Dominance II*), *aff'd sub nom. Western Coal Traffic League* v. *United States,* 719 F.2d 772 (5th Cir. 1983) (*en banc*), *cert. denied,* 466 U.S. 953 (1984). Later, recognizing that it is inherently ''much more difficult'' for shippers to prove the ineffectiveness of these factors than of intramodal and intermodal competition, the ICC placed upon the railroads the burden of both identifying any product and geographic competition and demonstrating the effectiveness of such competition in individual cases. *Market Dominance III,* 2 I.C.C.2d at 15.

The comments presented in the Ex Parte 575 hearings suggest, however, that, even without bearing the burden of proof on these issues, shippers find that the product and geographic competition inquiry remains an imposing burden upon their ability to prosecute rail rate complaints. Aggressive use of the discovery process may be partly responsible for the heavy burdens associated with the inquiry into product and geographic competition, and we have recently taken action to prevent a rail carrier from effectively shifting those burdens onto a complaining shipper through unsupported and/or overreaching discovery demands. *FMC Wyoming Corp. et al.* v. *Union Pac. R.R.,* STB Docket No. 42022 (STB served Apr. 17, 1998). However, curbing individual instances of discovery abuses may not be sufficient to address the shippers' concerns. Therefore, we are instituting this proceeding to obtain public comment on whether we should eliminate product and geographic competition from consideration altogether.

Any person that wishes to participate as a party of record in this matter must notify us of this intent by May 12, 1998. In order to be designated a party of record, a person must satisfy the filing requirements outlined in the **ADDRESSES** section. We will then compile and issue a service list. Copies of comments and replies must be served on all persons designated on the list as a party of record. Comments on the proposal are due May 29, 1998; replies are due June 29, 1998.

A copy of this decision is being served on all persons on the service list in Ex Parte No. 575. This decision will serve as notice that persons who were parties of record in the Ex Parte 575 proceeding will not be placed on the service list in the Ex Parte 627 proceeding unless they notify us of their intent to participate therein.

The Board preliminarily certifies that the proposal to eliminate product and geographic competition from its market dominance analysis, if adopted, would not have a significant effect on a substantial number of small entities. While the proposal, if adopted, may ease the burdens on those prosecuting rate complaints, we do not expect it to affect a substantial number of small entities. The Board, however, seeks comments on whether there would be effects on small entities that should be considered.

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

Decided: April 28, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–11669 Filed 5–1–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 200X)]

Norfolk and Western Railway Company; Abandonment Exemption; in Dickenson and Buchanan Counties, VA

Norfolk and Western Railway Company (NW) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon 3.34 miles of its line of railroad between milepost CL–13.56 at Duty and milepost CL–16.90 at Clinchfield Coal in Dickenson and Buchanan Counties, VA.[1] The line traverses United States Postal Service Zip Codes 24217 and 24066.

NW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR

[1] On April 23, 1998, NW informed the Board that the actual mileage for the line is 3.34 miles instead of 3.3 miles as stated in its verified notice.

1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met. As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 3, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 14, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 26, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423. A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by May 8, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NW's filing of a notice of consummation by May 4, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: April 23, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–11517 Filed 5–1–98; 8:45 am]

BILLING CODE 4915–00–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Commission to Study Capital Budgeting

AGENCY: Advisory Commission to the President of the United States.

ACTION: Notice of meetings.

SUMMARY: The agenda for the next meetings of the Commission to Study Capital Budgeting includes discussions and hearing of testimony on capital budgeting issues on Friday, May 8. On Saturday morning, May 9, the Commission will hear reports from its working groups studying different aspects of capital budgeting and discuss the next steps to be taken in preparation of its report.The Commission's final report on capital budgeting is due on December 13, 1998. Meetings are open to the public. Limited seating capacity is available.

Dates, Times and Places of the Next Commission Meetings

May 8, 1998, 9 a.m. to 5 p.m.

The Federal Courthouse
Conference Room 850, Eighth Floor
500 Pearl Street
New York, NY 10007

May 9, 1998, 9 a.m. to 12 noon

The Federal Courthouse
Conference Room 850, Eighth Floor
500 Pearl Street
New York, NY 10007.

The Commission is seeking all views on capital budgeting. Interested parties may submit their views to: President's Commission to Study Capital Budgeting, Old Executive Office Building (Room 258), Washington, DC 20503, Voice: (202) 395–4630, Fax: (202) 395–6170, E-Mail: capital__budget@eop.gov, Website: http://www.whitehouse.gov/wh/eop/omb/pcscb/.

FOR FURTHER INFORMATION CONTACT: E. William Dinkelacker, Designated Federal Official, Room 4456 Main Treasury, Washington, DC 20220, Voice: (202) 622–1285, Fax: (202) 622–1294, E-Mail: william.dinkelacker@treas.sprint.com.

Angel E. Ray,

Committee Management Officer.

[FR Doc. 98–11790 Filed 5–1–98; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Zenith Insurance, Ltd.—Fraudulent Bonding

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is regarding Treasury Department Circular 570; 1997 Revision, published July 1, 1997, at 62 FR 35548.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Federal bond-approving officers are advised that Zenith Insurance Company, Woodland Hills, CA, a Treasury certified company, does not issue construction, bid, performance or payment bonds and is in no way related to Zenith Insurance, Ltd. Zenith Insurance, Ltd. is not a Treasury approved surety company.

Please refer to the State of California Department of Insurance Press Release #041, dated April 3, 1998, for additional information regarding Zenith Insurance, Ltd.

Questions related to the authenticity of Zenith bonds should be directed to Zenith Insurance company at (818) 587–5721. The authenticity of its bonds currently in force, that were written during the past year, should also be verified.

The Treasury Department Circular 570 may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6887. A hard copy of the Circular may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, Telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048000–00509–8.