

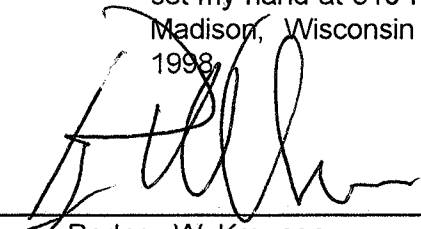
STATE OF WISCONSIN)
) SS
OFFICE OF THE COMMISSIONER OF RAILROADS)

I, Rodney W. Kreunen , Commissioner of the
Office of the Commissioner of Railroads

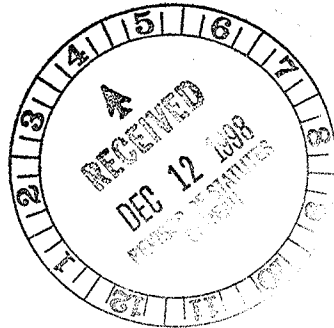
and custodian of the official records, certify that the annexed rules, repealing Chapter RR 3 relating to railroad ratemaking, were duly approved and adopted by this office on December 11, 1998.

I further certify that this copy has been compared by me with the original on file in this office and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 610 North Whitney Way, Room 110, Madison, Wisconsin this 11th day of December, 1998.



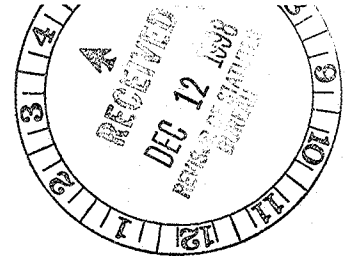
Rodney W. Kreunen
Commissioner of Railroads



9000order3

3-1-99

ORDER OF THE
OFFICE OF THE COMMISSIONER OF RAILROADS



The Wisconsin Office of the Commissioner of Railroads (office) adopts this order to repeal Chapter RR 3, relating to railroad ratemaking.

Clearinghouse No. 97-084

Statutory authority: ss. 189.02 (1), 195.03 (1), 195.39 and 227.11 (2) (a) and (b), Stats.

Statutes interpreted: ss. 189.02, 195.03 to 195.043, 195.05, 195.08 to 195.17, 195.21, 195.37 to 195.39, Stats.

Analysis Prepared by the Office of the Commissioner of Railroads:

The Wisconsin Office of the Commissioner of Railroads repeals ch. RR 3, Railroad Ratemaking, which sets forth procedural and substantive provisions for the regulation of intrastate railroad rates. Federal law has preempted chapter RR 3.

The Interstate Commerce Commission Termination Act granted exclusive jurisdiction over the regulation of railroad economic activity to the Surface Transportation Board (Board). 49 USC sec. 10501. The Termination Act preempted state regulation of intrastate railroad rates with which Chapter RR 3 was concerned. The Termination Act states, "The jurisdiction of the Board over (1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers ... is exclusive ... [T]he remedies ... with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law." 49 USC 10501 (b) (1). See also, 61 FR 14849 in which the Board stated its conclusion that the Termination Act preempts state regulation in this area.

The legislative history of the Termination Act also demonstrates Congressional intent to preempt state regulatory authority over intrastate rail rates. The House Transportation Committee report stated that the new law effects a "general pre-emption of State economic regulation of rail carriers ..." H.R. Rep. No. 311, 104th Cong., 1st Sess. 103 (1995).

For these reasons the office repeals Chapter RR 3.

Text of Rule

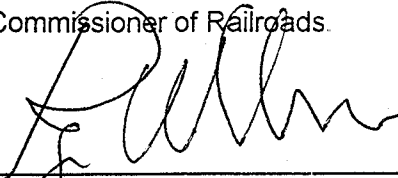
SECTION 1. Chapter RR 3 is repealed.

Note: The Interstate Commerce Commission Termination Act granted exclusive jurisdiction over the regulation of railroad economic activity to the Surface Transportation Board (STB). 49 USC sec. 10501. The Termination Act preempted state regulation of intrastate railroad rates with which Chapter RR 3 was concerned. See also, 61 FR 14849, in which the STB stated its conclusion that the Termination Act preempts state regulation in this area. The STB took over many of the duties of the Interstate Commerce Commission, which the Termination Act abolished. The Board can be reached at: Office of Congressional and Public Services, Surface Transportation Board, 1925 K St. N.W., Washington, DC 20423-0001. (202) 565-1594.

This rule shall take effect on the first day of the month commencing after the date of publication as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, December 11, 1998.

By the Office of the Commissioner of Railroads.



Rodney W. Kreunen, Commissioner of Railroads

9000RR3 Order



Office of the Commissioner of Railroads



610 N. Whitney Way
P.O. Box 8968
Madison, WI 53708-8968

Rodney W. Kreunen, Commissioner

Tel: (608) 266-7607
Fax: (608) 261-8220
TTY (608) 267-1479

December 10, 1998

Revisor of Statutes Bureau
Gary L. Poulson, Deputy Revisor
131 West Wilson Street, Room 800
Madison, Wisconsin 53703-3233

Re: Final administrative rules

Dear Mr. Poulson:

Please find enclosed a certified and an uncertified copy of 2 final rules adopted by the Office of the Commissioner of Railroads (Office). We provided the rule to the respective legislative clerks on May 14, 1998. The legislative committees did not object to the rules. Clearinghouse Rules 97-083 and 97-084.

Thank you for your attention to this matter. Please contact me at 266-9536 or on e-mail at woodd@psc.state.wi.us with any questions or comments.

Sincerely,

Douglas S. Wood
Legal Counsel

