

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 00-1047**

**September Term, 2000**

Filed On: December 12, 2000 [562393]

United Transportation Union-Illinois Legislative Board,  
Petitioner

v.

Surface Transportation Board and  
United States of America,  
Respondents

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No. 00-1082

United Transportation Union-Illinois Legislative Board,  
Petitioner

v.

Surface Transportation Board and  
United States of America,  
Respondents

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On Petitions for Review of Orders of the  
Surface Transportation Board

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Before: HENDERSON, ROGERS and TATEL, *Circuit Judges*.

## **J U D G M E N T**

Petitioner United Transportation Union–Illinois Legislative Board’s petition for review of orders of the Surface Transportation Board was considered on the record and on the briefs of counsel. The

issues have been accorded full consideration by the Court and occasion no need for a published opinion. *See* D.C. CIR. RULE 36(b). It is

**ORDERED** and **ADJUDGED** that UTU-IL's petition for review be denied. Petitioner's argument that the Courts of Appeals' authority to award costs is confined to "appeal[s]," FED. R. APP. P. 39(a)(1), and not to petitions for review, overlooks Rule 20's explicit extension of this authority to cases reviewing agency action. *See Delta Airlines, Inc. v. Civil Aeronautics Board*, 505 F.2d 386 (D.C. Cir. 1974) (awarding costs for a petition for review). In any event, petitioner has not followed the correct procedures for challenging this Court's (or the Seventh Circuit's) authority to award costs. The last of these awards was made over a year ago, and petitioner neither filed a timely request for reconsideration, nor requested certiorari from the United States Supreme Court. *See* SUP. CT. R. 13; FED. R. APP. P. 35(c). Petitioner also claims that the Board's decision to collect costs violates an agreement between the parties. The Board denies the existence of such an agreement, however, and UTU-IL cites no evidence in support other than letters from its own counsel.

The clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. *See* D.C. CIR. RULE 41(a)(1).

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY:

Deputy Clerk