

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35524

CANEXUS CHEMICALS CANADA L.P.

v.

BNSF RAILWAY COMPANY

Decided: June 8, 2011

On May 25, 2011, Canexus Chemicals Canada, L.P. (Canexus), filed a complaint with a request for expedited consideration. The complaint asks the Board to issue an order compelling BNSF Railway Company (BNSF) to establish common carrier rates and service terms effective July 1, 2011, between North Vancouver, B.C., and Kansas City, Mo., and between Marshall, Wash., and Kansas City, Mo.

Currently, BNSF is hauling Canexus shipments of chlorine from North Vancouver and Marshall to Kansas City in joint line service under temporary rates that terminate on June 30, 2011. According to the complaint, BNSF interchanges with Union Pacific Railroad Company (UP) in Kansas City and the shipments are hauled by UP to their final destinations in Illinois, Texas, and Arkansas. Canexus states that BNSF will terminate the interline service with UP through Kansas City after the temporary rates expire. Instead, BNSF offers to interchange with UP at Spokane, Wash. (for movements originating from Marshall), and Portland, Or. (for movements originating from North Vancouver).

Pursuant to 49 C.F.R. § 1111.4(c), BNSF's answer to this complaint must be submitted within 20 days after service of the complaint—June 15, 2011. Moreover, Canexus has demonstrated a legitimate need for expedited consideration, as Canexus alleges its shipping needs may not be met after June 30, 2011. Consequently, in addition to its answer, BNSF must submit its argument as to whether BNSF has a legal obligation to provide the specific service Canexus has requested and to establish an appropriate rate.

UP has an interest in this matter as a carrier involved in these movements. Accordingly, the Board directs UP to submit a pleading addressing its legal obligation, if any, to interchange with BNSF at Spokane and Portland. UP's submission will also be due on June 15, 2011.

Canexus, BNSF, and UP are advised that the Board may, following the receipt of the pleadings, convene an oral hearing to receive testimony from Canexus and the 2 railroads during the afternoon of June 23, 2011, at the Board's headquarters. The Board will publish notice of the tentative hearing in the Federal Register and, if the Board determines that a hearing is necessary, it will issue a subsequent notice setting the time no later than June 16, 2011.

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

It is ordered:

1. BNSF's submission is due June 15, 2011.
2. UP's submission is due June 15, 2011.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.