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SERVICE DATE – NOVEMBER 8, 2016

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42149

RICHARD BEST TRANSFER, INC. v. UNION PACIFIC RAILROAD COMPANY

Decided: November 8, 2016

On November 3, 2016, Richard Best Transfer, Inc. (RBT) filed a complaint alleging that certain revisions, effective November 1, 2016, made by UNION PACIFIC RAILROAD COMPANY (UP) to UP Tariff 4053-C constitute an unreasonable practice in violation of 49 U.S.C. § 10702 and unreasonable discrimination in violation of 49 U.S.C. §§ 10701(b) & 10741. On November 3, 2016, RBT also filed a petition for a preliminary injunction, requesting the Board enjoin UP from implementing the rate increases in the revisions to UP Tariff 4053-C. RBT requests expedited consideration of its petition.

RBT describes itself as a full-service transloading company headquartered in Reedley, California. (RBT Pet. for Prelim. Inj. 3.) RBT states that it receives approximately 4,600 railcars annually, primarily consisting of bulk agricultural feed ingredients in unit train service. (Id.) According to RBT, UP's recent revisions to UP Tariff 4053-C "specifically target RBT's transloading facility in Ivory, CA for a rate increase of \$250 per car . . ." (Id. 2.) RBT's Ivory facility is located on a San Joaquin Valley Railroad (SJVR) line and is served indirectly by UP via a handling carrier arrangement with SJVR. (Id. 2, 6-7; see also id., V.S. Charles Littlefield 6.)

RBT requests that the Board enjoin UP from implementing the tariff revisions that are subject to RBT's complaint until the Board issues a decision on the merits of the complaint. RBT argues an injunction is necessary because implementation of the tariff will cause RBT's customers to utilize competing transload facilities not subject to revised UP Tariff 4053-C to avoid the increased rate. (Id. 20.) RBT estimates this will cause it to lose 90% of its existing business at its Ivory facility, which, RBT argues, will put it out of business before the case is resolved. (Id.)

Due to the alleged extensive loss of business to RBT and its request for an expedited decision, UP's reply to the petition will be due on an expedited schedule. UP's reply to the petition will be due no later than Wednesday, November 16, 2016.¹

¹ Pursuant to 49 C.F.R. § 1111.4(c), UP's answer to the complaint will continue to be due by November 23, 2016.

It is ordered:

1. UP's reply to the petition is due no later than Wednesday, November 16, 2016.
2. This decision is effective on its service date.

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