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July 8, 2014

236294

ENTERED
Office of Proceedings
July 9, 2014
Part of
Public Record

EXPEDITED CONSIDERATION REQUESTED

VIA E-FILING

Ms. Cynthia T. Brown, Chief
Section of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

RE: Finance Docket No. 35765, Wichita Terminal Association, BNSF Railway Company, and Union Pacific Railroad Company - Petition for Declaratory Order

Dear Ms. Brown:

Wichita Terminal Association ("WTA") and related entities filed a Petition for Declaratory Order. By Decision served May 20, 2014, this Board, through the Director of the Office of Proceedings, granted the Petition and directed the parties to provide evidence and address certain questions related to this dispute.

The Board's procedural schedule directed WTA to file its Opening Statement on June 30, 2014 and for FYG to file its Reply on July 24, 2014.

FYG Requests 30 Additional Days to File its Reply.

Based upon the timing and voluminous content of WTA's Opening Statement, FYG Investments, Inc. and Treatco, Inc., (collectively "FYG.") respectfully request thirty (30) additional days to submit their evidence and reply to WTA's Opening Statement. In support of this request, FYG states as follows:

1. **Late service.** Although the Board's records currently reflect WTA filed its Opening Statement on June 30, 2014, WTA's submission was not served on counsel for FYG nor available electronically from the Board's website until mid-day on July 1, which was the Tuesday of the shortened July 4th Holiday weekend. It appears that the size of the pleading caused the delay, as the pleading is in three separate entries on the STB's electronic filing system.

2. WTA's voluminous, new evidence. Despite the years of litigation that preceded this Declaratory Order proceeding, WTA's Opening Statement includes new evidence that WTA had either not previously presented or contradicts prior sworn testimony WTA provided to the Kansas courts. FYG needs additional time to respond to these new items of evidence and may ultimately need additional time to investigate the new allegations.

a. New witnesses. WTA's Opening Statement includes verified statements of Simon Walbruch, Toni Hanson, and Robert Meder. FYG does not believe any of these witnesses have been previously identified in any of the proceedings during the last twelve years of litigating this dispute and the new testimony appears to contradict prior sworn testimony provided to the Kansas courts by other WTA witnesses.

b. New evidence. In response to the Board's direction to evidence its rail operations, WTA has provided three spreadsheets reportedly summarizing selected items of information that WTA relies upon to support WTA's contention that the IT industrial tracks are a critical artery of interstate commerce. None of this information has been previously presented and – until July 1, 2014 – FYG was not aware of it. Indeed, the underlying documents still have not been made available to FYG. FYG therefore would like additional time to review the new data WTA has provided and to respond to the arguments WTA makes based upon this new data.

3. Intervening holiday. In addition to the foregoing, FYG's time in which to respond includes the July 4th holiday. Ordinarily, this would not have created any problems. But, the influx of new data requires additional expertise and considerations that were not previously anticipated.

4. Opposing counsel. FYG sought WTA's consent to this requested extension on July 3, 2014. On July 8, 2014, counsel for WTA stated that WTA would only consent to a fifteen day extension. WTA accepts that consent, but still believes it will need at least the full thirty days so as to fully respond to the new contentions.

FYG seeks thirty additional days in which to file its Reply. If this request is granted, Respondents' Reply would be due on August 25, 2014. WTA's Rebuttal would be due September 8, 2014.

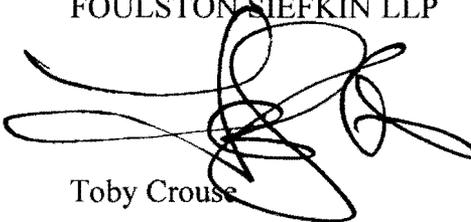
By signing this letter, undersigned counsel certifies that it is simultaneously serving a copy of this letter to Petitioners' counsel by electronic mail and U.S. Mail delivery.

Thank you in advance for your consideration. Please contact me if you have any questions or concerns.

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Very truly yours,

FOULSTON SIEFKIN LLP

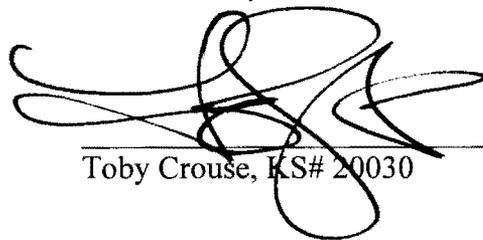


Toby Crouse

TC/dw

Certificate of Service

I hereby certify that I have this day served copies of this document upon all parties of record in this proceeding via electronic mail and by U.S. first-class mail, postage prepaid.



Toby Crouse, KS# 20030