

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42094 (Sub-No. 1)

PCI TRANSPORTATION, INC.

v.

FORT WORTH & WESTERN RAILROAD COMPANY

Decided: September 6, 2007

On October 26, 2006, PCI Transportation, Inc. (PCI), filed a complaint including a request for injunctive and other relief against Fort Worth & Western Railroad Company (FWWR) concerning FWWR's allegedly wrongful assessment of demurrage charges at PCI's distribution warehouse in Fort Worth, TX. FWWR and PCI filed proposed procedural schedules on March 16, 2007. The Board, in a decision served on May 11, 2007, adopted a procedural schedule that called for the parties to complete discovery by June 29, 2007, and for the evidentiary record to close by September 14, 2007.

On July 19, 2007, PCI and FWWR jointly requested that the procedural schedule issued on May 11 be suspended for a period of 45 days to allow the parties time to pursue settlement efforts. By decision served on August 7, 2007, the procedural schedule was suspended until September 4, 2007, and the parties were required, on or before that date, to jointly file with the Board a report on the status of their settlement discussions.

On September 4, 2007, PCI and FWWR filed a joint motion stating that, following circulation of an outline of basic elements, FWWR's counsel drafted and circulated a proposed Confidential Settlement Agreement and Mutual General Release. PCI's counsel replied that, after consultation with his client, they were very close to resolving this matter and offered specific comments on issues that still need to be addressed. Because the parties have concluded that a basis for an amicable settlement exists, they jointly request that the procedural schedule issued on May 11 be further suspended, for a period of 30 additional days, to allow time for the parties to pursue their settlement efforts.

The request is reasonable and consistent with the Board's preference for private-sector negotiation and resolution of disputes. Therefore, the request will be granted.

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

It is ordered:

1. The joint request to suspend the procedural schedule in this proceeding is granted.
2. The procedural schedule is suspended until October 5, 2007.
3. The parties shall, on or before October 5, 2007, jointly file with the Board a report on the status of their settlement discussions.
4. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary