

42938  
DO

SERVICE DATE – FEBRUARY 28, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42117

CARGILL, INC.; E.I. DU PONT DE NEMOURS AND COMPANY; EXXON MOBIL CORPORATION; JONES-HAMILTON CO.; PPG INDUSTRIES, INC.; REAGENT CHEMICAL AND RESEARCH, INC.; TAMINCO METHYLAMINES, INC.

v.

ABERDEEN AND ROCKFISH RAILROAD COMPANY; BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY; BNSF RAILWAY COMPANY; BOSTON AND MAINE CORPORATION; BUFFALO AND PITTSBURGH RAILROAD, INC.; CANADIAN NATIONAL RAILWAY; CANADIAN PACIFIC RAILWAY; CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY; CENTRAL WASHINGTON RAILROAD COMPANY; CSX TRANSPORTATION INC.; ELGIN, JOLIET AND EASTERN RAILWAY COMPANY; GARY RAILWAY COMPANY; INDIANA & OHIO RAILWAY COMPANY; IOWA, CHICAGO & EASTERN RAILROAD CORPORATION; IOWA NORTHERN RAILWAY COMPANY; KANSAS CITY SOUTHERN RAILWAY COMPANY; MAINE CENTRAL RAILROAD COMPANY; MONTANA RAIL LINK, INC.; NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORP.; NORFOLK SOUTHERN RAILWAY COMPANY; PAN AM RAILWAYS INC.; PORTLAND TERMINAL COMPANY; ROCHESTER AND SOUTHERN RAILROAD, INC.; SANDERSVILLE RAILROAD COMPANY; SPRINGFIELD TERMINAL RAILWAY CO.; UNION PACIFIC RAILROAD COMPANY; ASSOCIATION OF AMERICAN RAILROADS; RAILINC

Decided: February 28, 2013

Cargill, Inc., E.I. du Pont de Nemours and Company, Exxon Mobil Corporation, Jones-Hamilton Co., PPG Industries, Inc., Reagent Chemical and Research, Inc. and Taminco Methylamines, Inc. (collectively, complainants), have filed a complaint against the above-named parties<sup>1</sup> (collectively, defendants), requesting that the Board determine the reasonableness of certain rail practices and prescribe reasonable rail practices for the future. Specifically, complainants allege that, with respect to the calculation of “mileage equalization” charges set forth in Freight Tariff RIC 6007-Series (Tariff), Item 187 and Item 190, defendants have charged complainants unreasonable amounts due to interpretations and applications of the Tariff that were not justified either by the Tariff or decisions of the Board’s predecessor, the Interstate

---

<sup>1</sup> In a decision served on June 8, 2010 (June 2010 decision), the Board granted complainants’ motion to dismiss Sandersville Railroad Company (Sandersville) as a defendant in this proceeding. As a result, Sandersville is no longer a party to this proceeding.

Commerce Commission, and that are thus unlawful. Complainants also filed a petition for mediation simultaneously with their complaint.

In its June 2010 decision, the Board resolved several pending matters and held this proceeding in abeyance to allow for mediation among the parties. By a series of subsequent decisions, the mediation period was extended several times, with the latest extension expiring on May 11, 2012. Upon notification that the parties had reached an agreement in principle to settle their dispute, the Board granted the parties' request to hold this proceeding in abeyance further as they formalized their settlement. At the Board's direction, the parties filed a status report on August 28, 2012, indicating that they had not yet finalized the terms of their settlement.

The Board seeks an update from the parties on the status of their settlement agreement and directs that the parties submit a status report by March 20, 2013.

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

It is ordered:

1. Parties shall file a status report with the Board by March 20, 2013.
2. This decision is effective on the date of service.

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