

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42094

PCI TRANSPORTATION, INC.

v.

FORT WORTH & WESTERN RAILROAD COMPANY

Decided: September 29, 2005

On August 8, 2005, PCI Transportation, Inc. (PCI), filed a complaint and request for injunctive relief against Fort Worth & Western Railroad Company (FWWR), alleging unreasonable demurrage practices. In response, FWWR filed a motion to dismiss the complaint without prejudice on September 9, 2005. FWWR contends that the complaint only states a cause of action for breach of contract and for other relief under Texas state law. As such, FWWR argues that the Board lacks subject matter jurisdiction under 49 U.S.C. 10709(c). Alternatively, FWWR requests that the Board hold the proceeding in abeyance pending action by the United States District Court for the Northern District of Texas, where the complaint is also pending.

On September 29, 2005, FWWR and PCI filed a stipulated motion requesting that the due date for PCI to respond to FWWR's motion be extended until October 11, 2005. The parties agree that the requested extension is appropriate and will not unduly delay the proceeding. The extension request is reasonable and will be granted.

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

It is ordered:

1. The due date for PCI to respond to FWWR's motion is extended to October 11, 2005.
2. This decision will be effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary