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SERVICE DATE – FEBRUARY 24, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42123

M&G POLYMERS USA, LLC

v.

CSX TRANSPORTATION, INC.

Decided: February 23, 2011

This decision grants a motion to modify the procedural schedule and sets a new procedural schedule for this proceeding.¹

On June 18, 2010, M&G Polymers USA, LLC (M&G) filed a complaint challenging the reasonableness of rates established by CSX Transportation, Inc. (CSXT), for the transportation of polyethylene terephthalate between 69 origin and destination pairs. M&G alleges that CSXT possesses market dominance over the traffic and requests that maximum reasonable rates be prescribed using the Board's Stand-Alone Cost (SAC) test. By a decision served on August 4, 2010, a procedural schedule and a protective order were established. On August 16, 2010, M&G filed an amended complaint, which deleted 6 lanes from the challenged traffic and added 5 more, resulting in a total of 68 origin and destination pairs.

On October 18, 2010, M&G filed a motion for leave to file a second amended complaint, which, among other things, joined South Carolina Central Railroad Company (SCRF) as a defendant. On January 27, 2011, M&G filed a motion to dismiss the complaint against SCRF with prejudice, stating that those parties reached a settlement agreement. M&G filed a third amended complaint on January 31, 2011, and filed a corrected third amended complaint on February 1, 2011. In a decision served February 4, 2011, the Board granted M&G's motion to dismiss SCRF.

¹ CSXT's motion for expedited determination of jurisdiction over the challenged rates, filed on January 27, 2011, will be ruled on in a separate decision. The Board will also separately address CSXT's February 11, 2011 request to disallow the addition of 2 lanes in M&G's third amended complaint, filed on January 31, 2011.

On January 10, 2011, M&G filed a motion to modify the procedural schedule. M&G states that CSXT does not oppose the motion. M&G proposes the following procedural schedule:

Joint Submission of Operating Characteristics	May 11, 2011
Complainant's Opening	June 29, 2011
Defendant's Reply	October 28, 2011
Complainant's Rebuttal	March 7, 2012
Closing Briefs	April 7, 2012

M&G's unopposed motion to modify the procedural schedule will be granted, and the procedural schedule set forth above will be adopted for this proceeding.

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

It is ordered:

1. M&G's motion to modify the procedural schedule is granted, and the schedule described above is adopted for this proceeding.

2. This decision is effective on its service date.

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