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SEC

SERVICE DATE - JULY 6, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 41685

CF INDUSTRIES, INC.,

v.

KOCH PIPELINE COMPANY, L.P.

Decided: June 30, 1998

On March 27, 1996, CF Industries (CF) filed a complaint against Koch Pipeline Company, L.P. (Koch) seeking an order under 49 U.S.C. 15503(a): (1) directing Koch to roll back rate increases on pipeline transportation of anhydrous ammonia<sup>1</sup> on the ground that the rate increases are unreasonable under 49 U.S.C. 15501(a) and discriminatory under 49 U.S.C. 15505; (2) requiring Koch to desist from unfair or destructive competitive practices that assertedly advantage its affiliate, Koch Nitrogen Company; (3) awarding appropriate damages under 49 U.S.C. 15904(b)(2); and (4) granting such other relief as the Board deems just and proper.

On May 2, 1996, Farmland Industries, Inc. (Farmland) petitioned for leave to intervene as a complainant. Farmland's intervention was granted by order served July 25, 1996. In a decision served May 14, 1997, the Board initiated an investigation to determine whether Koch's pipeline rates are unreasonably high and whether the rates unreasonably discriminate against complainants. Therein, the Board also set forth a procedural schedule allowing for the filing of simultaneous opening, reply and rebuttal statements by all parties. The record closed on March 2, 1998.

By this order, parties are requested to submit briefs summarizing the evidence that has been presented and arguing each party's case. In their briefs, the parties should specifically discuss the appropriateness of including, or excluding, in Koch's pipeline investment base the value of the anhydrous ammonia that was in the pipeline at the time of purchase. The parties are reminded that new evidence introduced in briefs (other than that which is requested in this decision) is not permitted and will be subject to motions to strike and other sanctions. The briefs shall not exceed 50 pages, exclusive of the specific information requested below. Each party shall file 15 copies of each submission as well as 3 computer diskettes containing electronic versions of the submission in WordPerfect 7.0 format.

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<sup>1</sup> Anhydrous ammonia is a colorless alkaline compound of nitrogen and hydrogen used as a direct application form of nitrogen and in the manufacture of fertilizer.

The following information is specifically requested, and should be submitted together with the briefs:

1. The record does not appear to contain data from Koch Pipeline's 1990 FERC Form No. 6. Koch should provide the same 12 pages from its 1990 FERC Form No. 6 which correspond to the data contained in the 1989 and 1991 FERC Form No. 6's filed in the workpapers with the Reply Verified Statement of John C. Klick, KO 000061 through KO 000227.
2. The parties should indicate whether the record contains historical data for 1995, 1996 and 1997 equivalent to that contained in Koch's 1994 FERC Form No. 6.
3. The parties should provide statutory citations to support the tax depreciation rates used in the various discounted cash flow models submitted in evidence.

It is ordered:

1. Briefs not to exceed 50 pages in length are due 30 days from the service date of this decision.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary