

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42097

ALBEMARLE CORPORATION

v.

THE LOUISIANA AND NORTH WEST RAILROAD COMPANY

Decided: May 30, 2006

In a decision served on May 2, 2006, the Board ordered this rate reasonableness proceeding held in abeyance until the completion of the rulemaking in Major Issues in Rail Rate Cases, STB Ex Parte No. 657 (Sub-No. 1), et al. (STB served Feb. 27, 2006) (Major Issues), except that it ordered The Louisiana and North West Railroad Company (LNW) to file an answer to the complaint filed by Albemarle Corporation (Albemarle) and a response to Albemarle's request to consolidate this proceeding with the proceeding in STB Docket No. 42096, Albemarle Corporation—Petition for Declaratory Order—Certain Rates and Practices of The Louisiana and North West Railroad Company. On May 8, 2006, LNW filed the answer and response ordered by the Board, as well as a motion to dismiss Albemarle's complaint. In a letter filed on May 18, 2006, Albemarle responded that it would await the conclusion of the rulemaking proceeding in Major Issues before responding to LNW's motion to dismiss.

By letter filed on May 19, 2006, LNW requested that the Board order Albemarle to reply to LNW's motion to dismiss within the 20-day period set forth in 49 CFR 1104.13(a), or by May 30, 2006. LNW argues that its motion to dismiss raises jurisdictional and ripeness issues that are unrelated to the ongoing evaluation of the stand-alone cost analysis in Major Issues. In a letter dated May 23, 2006, Albemarle argued that it should not be ordered to file a reply to LNW's motion to dismiss at this time because, in its May 2, 2006 decision, the Board had not made an allowance for the filing of a motion to dismiss, and LNW had not sought leave to file its motion.

While this proceeding has been held in abeyance during the rulemaking process in Major Issues, it is administratively efficient and desirable to consider LNW's motion to dismiss now rather than when the rulemaking is complete. Because the May 30, 2006 deadline will not provide Albemarle with a reasonable opportunity to prepare its reply, Albemarle will be directed to file a reply to LNW's motion to dismiss within 20 days of the service date of this decision.

The Board will consider Albemarle's motion to consolidate, if necessary, after the resolution of the motion to dismiss. This proceeding otherwise remains held in abeyance.

It is ordered:

1. Albemarle is directed to file a reply to LNW's motion to dismiss by June 19, 2006.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary