

SERVICE DATE - APRIL 15, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42090

WTL RAIL CORPORATION—PETITION FOR DECLARATORY RELIEF

Ex Parte No. 230 (Sub-No. 8)¹

IMPROVEMENT OF TOFC/COFC REGULATION—
WTL RAIL CORPORATION PETITION FOR PARTIAL
REVOCATION OF EXEMPTION

Decided: April 14, 2005

On December 14, 2004, WTL Rail Corporation (WTL) filed a petition under 5 U.S.C. 554(e) and 49 U.S.C. 721 seeking a declaratory ruling from the Board that: (1) certain practices of CSX Transportation, Inc. (CSXT) constitute an unreasonable practice in violation of 49 U.S.C. 10702 and 10704(a)(1); and (2) CSXT's refusal to use WTL's trailers as part of its 48-foot trailer fleet jeopardizes CSXT's ability to fulfill its car service obligations under 49 U.S.C. 11121-22. WTL seeks a cease and desist order. WTL also asks that the Board compel CSXT to use WTL's trailers and set a "default" rate for trailer compensation in the event the parties are unable to reach terms through negotiation. WTL concurrently filed a petition under 49 U.S.C. 10502(d) and 49 CFR 1121.1, et seq. for partial revocation of the class exemption adopted in Improvement of TOFC/COFC Regulation, 364 I.C.C. 731 (1981).

By decision served on February 8, 2005, CSXT and CSX Intermodal (CSXI) were granted an extension until February 15, 2005, to respond to WTL's petitions. By decision served February 15, 2005, these proceedings were held in abeyance until March 17, 2005, to allow settlement discussions to go forward. A decision served on March 17, 2005, granted a request by the parties to continue to hold the proceedings in abeyance until April 18, 2005, to give them additional time to conduct settlement discussions. The parties were directed to report back to the Board on April 14, 2005, as to the status of those discussions and as to when CSXT and CSXI replies, if any, should be due.

In a letter filed on April 13, 2005, CSXT and CSXI report that the parties have conducted discussions on the issues raised in WTL's petitions, and that WTL has provided certain

¹ These proceedings are not consolidated. A single decision is being issued for administrative convenience.

information to CSXT and CSXI, which has been reviewed. CSXT and CSXI indicate that they are preparing a response to forward to WTL that should lead to further discussions regarding a settlement in these proceedings. CSXT and CSXI request that the Board continue to hold these proceedings in abeyance for another 30 days to give the parties additional time to conduct settlement discussions. Counsel for CSXT and CSXI states that WTL has agreed to the extension request.

The request to continue to hold these proceedings in abeyance is reasonable and will be granted. The parties are directed to report back to the Board on May 16, 2005, as to the status of those discussions and as to when CSXT and CSXI replies, if any, should be due.

It is ordered:

1. These proceedings will be held in abeyance until May 18, 2005.
2. This decision is effective on the date served.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary