

SERVICE DATE - MAY 8, 1997

SURFACE TRANSPORTATION BOARD¹

DECISION

No. 41590

SHOPKO STORES, INC.--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF AMERICAN FREIGHT SYSTEM, INC.

Decided: May 5, 1997

This proceeding arises out of the efforts of American Freight System, Inc. (respondent) to collect undercharges on certain shipments from shipper, Shopko Stores, Inc. (petitioner). The matter is before the Board on referral from the United States Bankruptcy Court for the District of Kansas, in *American Freight System, Inc. v. Shopko Stores, Inc.*, Adv. No. 90-7655, (referral order dated May 10, 1995).

By decision July 11, 1995, the ICC established a procedural schedule in this proceeding. Subsequently, by decision served April 16, 1997, the Board directed petitioner to show cause why this proceeding should not be dismissed.

By motion filed May 2, 1997, petitioner advised the Board that the parties have settled the lawsuit and that the underlying proceeding has been dismissed by court order dated February 1, 1996. Accordingly, petitioner requests that this proceeding be dismissed. The request will be granted.

It is ordered:

1. This proceeding is dismissed.
2. This decision is effective on the service date.
3. A copy of this decision will be mailed to:

The Honorable James A. Pusateri
United States Bankruptcy Court
for the District of Kansas
Frank Carlson Federal Building and
U.S. Courthouse
444 S.E. Quincy Street, Room 215
Topeka, KS 66683

Re: Case No. 88-41050-11, Adv. No. 90-7655

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

¹ On December 29, 1995, the President signed the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICC Termination Act or the Act). Effective January 1, 1996, the Act abolished the Interstate Commerce Commission (ICC) and transferred various ICC functions to a newly created Surface Transportation Board (Board), including the resolution of issues in motor carrier undercharge proceedings, 49 U.S.C. 13709-13711.