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SEC

SERVICE DATE - SEPTEMBER 5, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB No. 42009

ELKAY PLASTICS CO., INC.--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF BEE LINE MOTOR FREIGHT

Decided September 2, 1997

This proceeding arises out of the efforts of Bee Line Motor Freight (respondent) to collect undercharges for certain transportation services performed on behalf of Elkay Plastics Co., Inc. (petitioner). The matter is before the Board on referral from the United States Bankruptcy Court for the District of Nebraska, for the Board's determination of unreasonable practice, rate unreasonableness, and/or other regulatory defenses asserted by petitioner against respondent's undercharge claim.

By decision served July 30, 1997, the Board established a procedural schedule in this proceeding. Petitioner's opening statement was due on September 29, 1997.

By stipulation of dismissal filed August 26, 1997, the parties advised the Board that respondent had voluntarily agreed to dismiss its underlying court proceeding against petitioner. The parties submitted a copy of the referring court's August 11, 1997, order dismissing the underlying court proceeding. Accordingly, the parties request that the Board dismiss this proceeding. 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 Timothy J. Mahoney
United States District Court for the District of Nebraska
8419 Zorinsky Federal Building
Post Office Box 428, DTS
Omaha, NE 68101

Re: Chapter 7 Case No. BK96-80608
Adv. Pro. No. A 97-8021

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary