

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42098

WILLIAMS OLEFINS, L.L.C.

v.

GRAND TRUNK CORPORATION

Decided: December 11, 2006

On November 22, 2006, Williams Olefins, L.L.C. (Williams) filed a rate complaint against Grand Trunk Corporation (GTC) under 49 U.S.C. 10701(d)(1). Williams challenges the reasonableness of two rates that GTC provides for the movement of propylene: (1) between Geismar, LA, and Garyville, LA; and (2) between Geismar, LA, and Longview, TX, via interchange with the Union Pacific Railroad Company (UP) at Baton Rouge, LA.¹ To assess the reasonableness of the challenged rail rates, Williams seeks to use the simplified and expedited procedures adopted by this agency in Rate Guidelines – Non-Coal Proceedings, 1 S.T.B. 1004 (1996) (simplified procedures).

Williams also asks the Board to mediate this dispute for a period of 30 days. The Board's regulations provide for the use of alternative dispute resolution (ADR), including mediation, in cases such as this upon the mutual consent of the parties. 49 CFR 1109.1. On December 6, 2006, GTC and UP advised that they are amenable to mediation, provided that it is non-binding on the parties and is subject to confidentiality requirements and a protective order. To protect confidential information, GTC proposes that the dispute regarding its single-line rate be mediated separately from the dispute regarding the rate for the joint movement with UP. GTC and UP also condition their agreement to mediate on the Board holding this rate proceeding in abeyance pending the completion of mediation, including suspending the requirements of 49 CFR 1111.9 regarding discovery, the filing of an answer, and filings on the issue of whether simplified procedures are appropriate in this case. On December 8, 2006, Williams filed a reply expressing agreement with the GTC letter and to the conditions included in that letter.

Because all parties agree, the Board will provide non-binding mediation in this proceeding and will designate a staff member to serve as mediator. The procedural schedule will be held in abeyance during mediation. The mediator will contact the parties to discuss ground rules and the time and location of any meetings. At least one principal of each party who has the authority to commit that party shall participate in the mediation and be present at any session at

¹ Williams failed to include UP as a defendant in its complaint that challenges this joint rate. As such, if the mediation proves unsuccessful, Williams will need to amend its complaint to include UP as a defendant or that portion of the complaint will be dismissed.

which the mediator requests that the principal be present. The parties are instructed to inform the Board when mediation has ended, with or without a resolution. If mediation ends without a successful resolution of the rate dispute, the Board will then issue a procedural schedule for this case.

The Board will, as is customary in rate proceedings, impose confidentiality requirements and will issue a protective order similar to those issued in cases considered under the stand-alone cost methodology.²

It is ordered:

1. Mediation is provided as described above. A member of the Board's staff will be designated to serve as mediator.
2. The procedural schedule is held in abeyance pending the conclusion of mediation.
3. This decision is effective on the date of its service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

² GTC states that it expects that the parties will work together to develop an appropriate confidentiality agreement and protective order.