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SEC

SERVICE DATE – AUGUST 28, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34870

PYCO INDUSTRIES, INC.

v.

SOUTH PLAINS SWITCHING, LTD. CO.

Decided: August 27, 2007

On April 19, 2006, PYCO Industries, Inc. (PYCO) filed a complaint and a request for civil penalties and other appropriate relief against South Plains Switching, Ltd. Co. (SAW). PYCO alleges that SAW violated various provisions of the Interstate Commerce Act, as amended. On May 9, 2006, SAW moved to dismiss the complaint and filed an answer. By decision served May 4, 2007, the Board adopted a procedural schedule; in decisions served on June 6 and July 3, 2007, the Board modified the procedural schedule. The latter decision provided that discovery would be completed on August 6, 2007 and that PYCO's opening statement would be due on August 31, 2007.

In a pleading filed on August 13, 2007, PYCO seeks an order compelling further response to its discovery requests. In addition, because PYCO believes SAW may have difficulty providing a timely response prior to the due date for PYCO's opening statement, PYCO also asks for an order in limine barring SAW from presenting evidence or argument on the subject matter of PYCO's discovery to which SAW failed to respond. SAW filed an opposition to these motions on August 21, 2007.

PYCO's extensive motions will require time to consider and address. Given that PYCO's opening statement is due on August 31, 2007, the procedural schedule will be suspended until the Board issues a decision on the motions to compel and for an order in limine. The forthcoming Board decision on these motions will adjust the procedural schedule accordingly.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The procedural schedule established in the decision served on July 3, 2007, is suspended pending a decision on PYCO's motions to compel discovery responses and for an order in limine.

2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary