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SEC

SERVICE DATE – SEPTEMBER 7, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42099¹

STB Docket No. 42100

STB Docket No. 42101

E.I. DUPONT DE NEMOURS AND COMPANY

v.

CSX TRANSPORTATION, INC.

Decided: September 6, 2007

On August 21, 2007, E.I. du Pont de Nemours and Company (DuPont) filed three separate complaints challenging the reasonableness of rates charged by CSX Transportation, Inc. (CSXT). DuPont requests that the Board consider its complaints under the simplified procedures adopted in Rate Guidelines—Non-Coal Proceedings, 1 S.T.B. 1004 (1996). DuPont seeks a rate prescription, reparations, and other relief the Board determines just and proper under the circumstances.

On September 5, 2007, the Board issued new guidelines in Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1) (Simplified Standards). Simplified Standards, in which both DuPont and CSXT participated, overhauls the Board's procedures for cases where the value of a complainant's case does not warrant a full stand-alone cost presentation. As the Board's decision in Simplified Standards revises and clarifies the 1996 guidelines to address identified deficiencies in those guidelines, it is appropriate that these complaints be considered under the newly adopted rules.

Accordingly, DuPont is instructed to supplement its complaints by October 30, 2007 (which is approximately 20 days after the new guidelines are scheduled to become effective) to make any adjustments to its complaints it determines to be warranted. The Board will then apply the procedural schedule set forth in Simplified Standards beginning at Day 0, including the required initial disclosures on Day 0 and mandatory mediation. CSXT's answers to the complaints will be due 20 days after DuPont's supplements to the complaints are filed.

On September 4, 2007, CSXT filed a motion to dismiss the complaints, arguing that the rates at issue are not subject to the Board's jurisdiction because they are not common carrier

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

rates, but rather contract rates pursuant to 49 U.S.C. 10709. CSXT requests that the Board stay consideration of the complaints pending a Board decision on its motion to dismiss. Because CSXT's motion to dismiss raises a threshold jurisdictional issue, DuPont's reply to CSXT's motion will remain due by September 24, 2007, as provided in 49 CFR 1104.13(a).

It is ordered:

1. DuPont shall supplement its complaints to conform to the Board's decision in Simplified Standards, and simultaneously produce the Complainant's Initial Disclosures required under Simplified Standards, by October 30, 2007. The day of those filings and production shall be Day 0, and the procedural schedule will then continue as described in Simplified Standards.

2. DuPont's reply to CSXT's motion to dismiss is due by September 24, 2007.

3. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary