

SERVICE DATE - APRIL 16, 1997

SURFACE TRANSPORTATION BOARD¹

DECISION

No. 41590

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

Decided: April 11, 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. Petitioner's opening statement was due on September 11, 1995. However, Board records indicate that petitioner has not filed its statement. Therefore, petitioner is directed to file its opening statement or show cause within 20 days of service of this decision why this proceeding should not be dismissed.

It is ordered:

1. Petitioner is directed within 20 days of service of this decision to file its opening statement or to show cause why this proceeding should not be dismissed.
2. If petitioner files its opening statement, respondent's reply statement will be due 30 days from petitioner's opening statement, and petitioner's rebuttal statement will be due 20 days from the date respondent files its reply.
3. This decision is effective on the service date.
4. 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.