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SEC

SERVICE DATE – DECEMBER 22, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42084

CF INDUSTRIES, INC. v. KANEB PIPE LINE PARTNERS, L.P.
and KANEB PIPE LINE OPERATING PARTNERSHIP, L.P.

Decided: December 21, 2004

In a decision served August 12, 2004, the Board ordered Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P. (collectively, Kaneb), to reduce the rates charged to CF Industries, Inc. (CFI), for the pipeline transportation of anhydrous ammonia to the level the Board previously prescribed in CF Industries Inc. v. Koch Pipeline Company, L.P., STB Docket No. 41685 (STB served May 9, 2000), aff'd sub nom. CF Industries, Inc. v. STB, 255 F.3d 816 (D.C. Cir. 2001) (Koch). The Board noted in its August 12 decision that, although the prescription was still in effect, Kaneb's purchase of the pipeline may have produced changed circumstances sufficient to warrant vacating the prescription. To determine whether the factual underpinnings of the Koch prescription are still valid, the Board asked for additional evidence.

By motion filed on November 10, 2004, CFI asks the Board to appoint a mediator to facilitate a negotiated settlement of this dispute. On November 23, 2004, Kaneb filed a reply in opposition to CFI's request for appointment of a mediator and to the use of any alternative dispute resolution procedure.

Under the Board's regulations governing alternative dispute resolution at 49 CFR part 1109, mediation requires the consent of both parties (section 1109.1) unless the case involves a specific situation not present in this proceeding (section 1109.4(a)). Kaneb has not consented to mediation here, and CFI's motion will therefore be denied. Nevertheless, the Board encourages the parties to work to resolve their dispute informally.

It is ordered:

1. CFI's motion for appointment of a mediator is denied.

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

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary