

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42063

RAILWAY PROGRESS INSTITUTE COMMITTEE ON TANK CARS  
PETITION FOR INVESTIGATION AND PROTEST PURSUANT TO EX PARTE NO. 328

Decided: May 15, 2002

In a decision served October 18, 2001 (October 18 decision), the Board ordered that this and certain other proceedings<sup>1</sup> be put on hold while parties and interested individuals and organizations negotiate concerning the storage and diversion issues raised relating to the 1986 Agreement prescribed in Investigation of Tank Car Systems, 3 I.C.C.2d 196 (1986). The parties were directed to give the Board a written report on the progress of the negotiations. In decisions served November 20, 2001, January 8, 2002, February 22, 2002, and April 12, 2002, the Board held the October 18 decision in abeyance until January 4, 2002, February 19, 2002, April 5, 2002, and May 20, 2002, respectively. In the interim, two proceedings have been discontinued: STB Docket No. 42061 in a decision served on March 20, 2002, and STB Docket No. 42062 in a decision served on April 12, 2002.

On May 2, 2002, the Railway Progress Institute's Committee on Tank Cars (RPI-CTC), in STB Docket No. 42063, filed a notice of settlement and withdrawal of its petition for investigation and protest of a tariff published by the Union Pacific Railroad Company (UP). RPI-CTC states that it and UP have voluntarily negotiated a resolution of their dispute. RPI-CTC indicates that this resolution involves the issuance of Supplement 33 to amend Accessorial Tariff UP 6004, Item 4800-series. This amendment specifies that certain storage charges are not applicable to private cars being held at or adjacent to non-railroad repair facilities for repair, maintenance, modification, cleaning, lining, and relining. In withdrawing its petition for investigation and protest, RPI-CTC "requests that [STB] Docket No. 42063 be dismissed without prejudice."

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<sup>1</sup> STB Docket No. 42060, North America Freight Car Association — Protest and Petition for Investigation — Tariff Publications of The Burlington Northern and Santa Fe Railway Company; STB Docket No. 42061, Railway Progress Institute Committee on Tank Cars Petition for Investigation and Protest Pursuant to Ex Parte No. 328; STB Docket No. 42062, The Chlorine Institute, Inc. — Protest and Petition for Investigation — Tariff Publications of Union Pacific Railroad Company; and STB Docket No. 42064, E.I. DuPont de Nemours and Company — Protest and Petition for Investigation.

RPI-CTC's request will be granted. It should be noted that there are pending requests to intervene. While mooting their request, the dismissal of this proceeding should not prejudice the parties seeking intervention because the challenged storage provisions are no longer applicable.

With the dismissal of this proceeding, only two of the proceedings originally held in abeyance in the Board's October 18 decision are still pending: STB Docket Nos. 42060 and 42064. Those proceedings are held in abeyance until May 20, 2002.

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

It is ordered:

1. In STB Docket No. 42063, RPI-CTC's petition is dismissed without prejudice, and the proceeding is discontinued.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary