

SERVICE DATE – JUNE 24, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42090

WTL RAIL CORPORATION—PETITION FOR DECLARATORY RELIEF

STB Ex Parte No. 230 (Sub-No. 8)¹

IMPROVEMENT OF TOFC/COFC REGULATION—
WTL RAIL CORPORATION PETITION FOR PARTIAL
REVOCATION OF EXEMPTION

Decided: June 23, 2005

On December 14, 2004, WTL Rail Corporation (WTL) filed a petition under 5 U.S.C. 554(e) and 49 U.S.C. 721 seeking a declaratory ruling from the Board that: (1) certain practices of CSX Transportation, Inc. (CSXT) constitute an unreasonable practice in violation of 49 U.S.C. 10702 and 10704(a)(1); and (2) CSXT's refusal to use WTL's trailers as part of its 48-foot trailer fleet jeopardizes CSXT's ability to fulfill its car service obligations under 49 U.S.C. 11121-22. WTL seeks a cease and desist order. WTL also asks that the Board compel CSXT to use WTL's trailers and set a "default" rate for trailer compensation in the event the parties are unable to reach terms through negotiation. WTL concurrently filed a petition under 49 U.S.C. 10502(d) and 49 CFR 1121.1, *et seq.* for partial revocation of the class exemption adopted in Improvement of TOFC/COFC Regulation, 364 I.C.C. 731 (1981).

By decision served on February 8, 2005, CSXT and CSX Intermodal (CSXI) were granted an extension under February 15, 2005, to respond to WTL's petitions. Decisions served February 15, March 17, April 15, and May 18, 2005, granted requests by the parties to hold the proceedings in abeyance to give them additional time to conduct settlement discussions. The most recent decision held the proceedings in abeyance until June 17, 2005, and directed the parties to report back to the Board on June 15, 2005, as to the status of those discussions and as to when CSXT and CSXI replies, if any, should be due.

In a letter e-filed on June 17, 2005, CSXT and CSXI report that they continue to review the proposals made by WTL and believe that further discussions will result in a settlement. CSXT and CSXI request that the Board continue to hold these proceedings in abeyance for another 45 days, until August 1, 2005, to give the parties additional time to conduct settlement discussions. Counsel for CSXT and CSXI states that WTL has agreed to the extension request.

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

The request to continue to hold these proceedings in abeyance is reasonable and will be granted. The parties are directed to report back to the Board on July 29, 2005, as to the status of those discussions and as to when CSXT and CSXI replies, if any, should be due.

It is ordered:

1. These proceedings will be held in abeyance until August 1, 2005.
2. This decision is effective on the date served.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary