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SEC

SERVICE DATE - JULY 21, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42043

FARMCO, INC. v. CENTRAL KANSAS RAILWAY L.L.C. AND  
KANSAS SOUTHWESTERN RAILWAY L.L.C.

Decided: July 20, 1999

On June 4, 1999, Farmco, Inc. (FMCO), a farmers' cooperative, filed a complaint alleging that between July 1, 1998, and September 30, 1998, Central Kansas Railway, L.L.C (CKR) and Kansas Southwestern Railway, L.C.C. (KSW), failed to deliver hopper cars that were guaranteed under the grain car allocation procedures prescribed in Union Pacific Railroad Company (UP) tariffs. On June 22, 1999, CKR and KSW jointly filed their answer to the complaint. On July 7, 1999, FMCO filed a reply to CKR and KSW's answer.

In a letter dated July 9, 1999, counsel for CKR and KSW indicates that, pursuant to 49 CFR 1111.10(a), the parties conferred by telephone on July 6 and 7, 1999, and propose the following procedural schedule to govern this proceeding:

September 1, 1999	Discovery completed
October 1, 1999	FMCO's operating evidence
November 15, 1999	CKR and KSW's reply evidence
December 14, 1999	FMCO's rebuttal evidence
January 14, 2000	The parties will file briefs.

The proposed schedule is reasonable and will be adopted.

In their submissions, the parties should clarify whether the shipments at issue moved under tariff rates or under a contract pursuant to 49 U.S.C. 10709. If the shipments moved under tariff rates, the parties should specify whether they were joint rates, a combination of independently established UP, CKR and KSW rates, or UP rates. If they were UP rates, the parties should indicate whether CKR and KSW acted as agents for UP. Copies of all relevant tariffs should be submitted.

Since UP's tariffs are involved in the complaint, FMCO is directed to serve a copy of its filings and the joint answer of CKR and KSW on UP within 5 days after service of this decision and certify to the Board that service was made.

It is ordered:

1. The parties must comply with the procedural schedule set forth in this decision.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary