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SERVICE DATE – APRIL 12, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42118

BRAMPTON ENTERPRISES, LLC D/B/A SAVANNAH RE-LOAD v. NORFOLK
SOUTHERN RAILWAY COMPANY

Decided: April 12, 2011

This decision holds the proceeding in abeyance while the parties discuss issues in the case and exchange information on a voluntary basis.

On March 29, 2010, Brampton Enterprises, LLC, d/b/a Savannah Re-Load (Brampton) filed a complaint against Norfolk Southern Railway Company (NSR), alleging that provisions of NSR's Tariff NS 6004-B constitute unreasonable practices in violation of 49 U.S.C. § 10702(2). On March 29, 2010, NSR filed both an answer to the complaint, generally denying Brampton's allegations, and a motion to dismiss the complaint. On March 31, 2010, Brampton filed a reply to NSR's motion to dismiss. By decision served on March 16, 2011, the Board denied the motion to dismiss the complaint and ordered the parties to propose a joint procedural schedule by April 4, 2011.

On April 4, 2011, Brampton and NSR jointly filed a report stating that they have discussed discovery and other procedural matters, as required under 49 C.F.R. § 1111.10(a). They assert that they believe it would be productive for them to engage in further discussions regarding issues and to exchange information on a voluntary basis. The parties note that such discussions will assist them in determining whether the issues in the case can be narrowed or resolved amicably and will both inform the scope of any further proceedings and facilitate development of a proposed procedural schedule. They request that the requirement to file a proposed procedural schedule, which was to have been included in their report pursuant to 49 C.F.R. § 1111.10(a), be held in abeyance for 60 days.

The joint request is reasonable, and the proceeding will be held in abeyance so that the parties may voluntarily exchange information and continue to discuss issues in the case. By June 3, 2011, the parties must inform the Board regarding any progress made in their discussions and, jointly or separately, must file a proposed procedural schedule.

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

It is ordered:

1. The proceeding is held in abeyance until June 3, 2011.
2. The parties are directed to inform the Board regarding any progress made in their discussions and to file a proposed procedural schedule by June 3, 2011, as discussed above.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.