

SERVICE DATE - JUNE 19, 1997

SURFACE TRANSPORTATION BOARD¹

DECISION

No. 41530

SUGAR FOODS CORPORATION--PETITION FOR DECLARATORY
ORDER--CERTAIN RATES AND PRACTICES OF B.J. MCADAMS, INC.

Decided: June 13, 1997

This proceeding arises out of the efforts of B.J. McAdams, Inc. (respondent) to collect undercharges on certain shipments from Sugar Foods Corporation (petitioner). The matter is before the Board on referral from the United States District Court for the Southern District of New York, in *The Bankruptcy Estate of B.J. McAdams, Inc. v. Sugar Foods Corporation*, 92 Civ. 2769 (RCL) (referral order dated July 11, 1994).

By letter filed June 12, 1997, petitioner states that it has been determined to be a small business and has requested that respondent dismiss its underlying lawsuit pursuant to 49 U.S.C. 10701(f)(9) (recodified at 49 U.S.C. 13709(h)). Therefore, petitioner requests that this proceeding be discontinued and dismissed without prejudice to a reopening in the event that the respondent's underlying lawsuit is not dismissed under 49 U.S.C. 10701(f)(9) as anticipated. The request will be granted, and the proceeding will be dismissed without prejudice.

It is ordered:

1. This proceeding is dismissed without prejudice.
2. This decision is effective on the service date.
3. A copy of this decision will be mailed to:

The Honorable Robert L. Carter
United States Court for the
Southern District of New York
U.S. Courthouse
40 Foley Square
New York, NY 10007

Re: 92 Civ. 2769 (RCL)

By Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

¹ On December 29, 1995, the President signed the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICC Termination Act or the Act). Effective January 1, 1996, the Act abolished the Interstate Commerce Commission (ICC) and transferred various ICC functions, including the resolution of issues in motor carrier undercharge proceedings, to a newly created Surface Transportation Board (Board), 49 U.S.C. 13709-13711.