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SEC

SERVICE DATE – SEPTEMBER 15, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42084

CF INDUSTRIES INC. v. KANEB PIPE LINE PARTNERS, L.P.
AND KANEB PIPE LINE OPERATING PARTNERSHIP, L.P.

Decided: September 14, 2006

In a decision served on August 12, 2004, the Board directed Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P. (collectively, Kaneb) to stop charging rates to CF Industries, Inc. (CFI) for the pipeline transportation of anhydrous ammonia in excess of those prescribed in CF Industries Inc. v. Koch Pipeline Company, L.P., STB Docket No. 41685 (STB served May 9, 2000), aff'd sub nom. CF Industries, Inc. v. STB, 255 F.3d 816 (D.C. Cir. 2001), and to pay reparations. The Board also noted that there could be changed circumstances associated with Kaneb's purchase of the pipeline from Koch that might warrant vacating the prescription, and asked for additional evidence on that issue. The evidence was timely submitted under a protective order issued by the Board on September 16, 2004, an oral argument was held, and post-argument briefs were filed in June 2005.

The Board subsequently learned that Kaneb was acquired by Valero L.P. (Valero) by stock purchase in July 2005. In a decision served on November 3, 2005, the agency requested more information about that transaction because of its possible implications for the instant proceeding, and ordered Kaneb to submit a supplemental pleading. The Board allowed CFI to reply.

Kaneb submitted a supplemental brief on November 22, 2005, responding in part to the Board's request, but also asked for additional time to prepare a more complete response. The Board granted Kaneb's extension request, as well as a subsequent request, which extended the due date for the response to March 31, 2006, and the reply due date to April 14, 2006.

Kaneb timely filed its second supplemental brief, providing additional information about Valero's acquisition. CFI filed a reply, which also included a conditional motion to conduct discovery, and Kaneb replied on May 3, 2006.

The Board granted CFI's conditional discovery motion in a decision served on May 30, 2006. Additionally, the Board ordered that, if CFI wishes to file a supplemental pleading based on its discovery, that pleading will be due 45 days from the date the

carrier provides the final accounting to the Board and CFI. The Board noted that, if Kaneb wishes to file a reply, it is due 15 days after CFI files its supplemental pleading.

The Board then granted Kaneb's July 11, 2006 request for an amended protective order, and, on July 28, 2006, Kaneb submitted the final accounting.

On August 16, 2006, Kaneb and CFI jointly filed a motion asking the Board to extend the due dates set forth in the May 30, 2006 decision to accommodate a new discovery schedule. The parties then superseded this motion with another extension request filed on August 24, 2006. In their second motion, the parties explained that they have entered settlement negotiations, and they requested that the Board extend the due dates for their supplemental pleadings. The Board granted their request in a decision served on August 29, 2006.

On September 11, 2006, CFI and Kaneb filed another motion seeking an extension of the due dates. The parties explain that they are continuing their negotiations, and have agreed to further extend the deadlines for their submissions. Accordingly, they request that the Board make CFI's supplement due by November 6, 2006, and make Kaneb's reply due by November 21, 2006.

The parties' extension request is reasonable and will be granted. If the settlement negotiations do not prove successful, CFI may file its pleading by November 6, 2006, and a reply may be filed by November 21, 2006.

It is ordered:

1. Should it be necessary, CFI's supplemental pleading is due by November 6, 2006, and Kaneb's reply is due by November 21, 2006.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary