

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42012

SIERRA PACIFIC POWER COMPANY AND IDAHO POWER COMPANY
v.
UNION PACIFIC RAILROAD COMPANY

Decided: October 9, 1997

In a complaint filed, and served on defendant, Union Pacific Railroad Company (UP), on August 1, 1997, Sierra Pacific Power Company and Idaho Power Company (complainants) allege that rates assessed by UP to move complainants' unit trains of coal from Sharp, UT, to complainants' North Valmy Station, an electric generating plant located in north central Nevada, exceed a maximum reasonable level and that UP possesses market dominance over the traffic. Complainants request that maximum reasonable rates be prescribed, along with related rules and service terms for the movement.¹

On September 12, 1997, UP filed a motion to compel complainants to produce documents, which complainants have refused to provide, relating to competition by The Burlington Northern and Santa Fe Railway Company (BNSF) for the movement of coal to the North Valmy Station.

On September 23, 1997, BNSF filed a petition for leave to intervene in this proceeding for the purpose of seeking a protective order preventing disclosure of the documents sought by UP, which relate to the contractual agreement and negotiations between complainants and BNSF. Concurrently with its petition to intervene, BNSF filed a motion for a protective order.

On September 24, 1997, complainants filed a reply to UP's motion to compel and to BNSF's petition for leave to intervene and motion for a protective order. UP filed a response in opposition to BNSF's motion for a protective order on September 25, 1997.

On October 1, 1997, UP filed a second motion to compel. In this motion, UP seeks an order compelling complainants to produce the prior testimony and workpapers of their stand-alone cost expert, which complainants have refused to provide.

Because UP allegedly requires the disputed documents sought in its motions to compel to conduct effective discovery and depositions, it requests expedited decisions on its motions so that it can complete discovery by the deadline of October 15, 1997. In order to give the Board an opportunity to appropriately address the matters before it, and afford the parties time to complete any necessary discovery, the deadline for the completion of discovery will be suspended until further notice.

It is ordered:

1. The deadline for the completion of discovery is suspended until further notice.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

¹ On August 15, 1997, the parties filed a joint motion for the approval of a stipulated protective order. By decision served August 25, 1997, the motion was granted and a protective order was entered.