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SERVICE DATE – SEPTEMBER 29, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42118

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

Decided: September 28, 2011

This decision grants the motion of Brampton Enterprises, LLC, d/b/a Savannah Re-Load (Brampton) to dismiss its complaint without prejudice and discontinue this proceeding.

On March 29, 2010, 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). NSR moved to dismiss the complaint. By decision served on March 16, 2011, the Board denied NSR's motion and ordered the parties to propose a joint procedural schedule by April 4, 2011. By decisions served on April 12, 2011, June 7, 2011, August 3, 2011, and August 18, 2011, the proceeding was held in abeyance in order for the parties to discuss issues in the case and exchange information on a voluntary basis. By September 15, 2011, the parties were directed to inform the Board regarding any progress made in their discussions and to file a proposed procedural schedule pursuant to 49 C.F.R. § 1111.10(a).

On September 20, 2011, Brampton filed a motion requesting that the Board dismiss its complaint without prejudice. Brampton states that it has reached an agreement with NSR that will satisfy Brampton's complaint pursuant to 49 C.F.R. § 1111.6 and fully release NSR from Brampton's claims. Accordingly, the motion to dismiss will be granted, and this proceeding will be discontinued.

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

It is ordered:

1. The complaint is dismissed without prejudice, and this proceeding is discontinued.
2. This decision is effective on its service date.

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