

41824
DO

SERVICE DATE – AUGUST 18, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42118

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

Decided: August 17, 2011

This decision holds the proceeding in abeyance while the parties continue to discuss issues in the case and a possible resolution of this matter.

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). By decision served on March 16, 2011, the Board denied NSR's motion to dismiss the complaint and ordered the parties to propose a joint procedural schedule by April 4, 2011. By decisions served on April 12, 2011, June 7, 2011, and August 3, 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 August 16, 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 August 15, 2011, Brampton and NSR jointly filed a status report stating that they have continued to exchange information related to issues in the case and have engaged in discussions about a possible resolution of this matter. They believe it would be productive for them to engage in further discussions. They request that this proceeding and the requirement to file a proposed procedural schedule, which was to have been included in their report, be held in abeyance for an additional 30 days, until September 15, 2011.¹ The parties further state that they anticipate that this request for an extension will be their last.

The joint request is reasonable, and the proceeding will be held in abeyance so that the parties may continue to discuss the issues in the case. By September 15, 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.

¹ The joint request appears to miscalculate the 30-day abeyance period as ending on September 13, 2011, which is only 28 days from August 16, 2011.

It is ordered:

1. The proceeding is held in abeyance until September 15, 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 September 15, 2011, as discussed above.
3. This decision is effective on its date of service.

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