

28576  
SEC

SERVICE DATE - NOVEMBER 17, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42003

APL LAND TRANSPORT SERVICES, INC.

v.

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: November 12, 1997

On June 6, 1997, APL Land Transport Services, Inc. (APL), a supplier of flat cars used in intermodal transportation, filed a complaint against The Burlington Northern and Santa Fe Railway Company (BNSF), alleging that, between June 1, 1994, and December 31, 1996, BNSF did not pay market-based compensation for the use of APL cars. The complaint further alleges that between January, 1996 and May, 1997, BNSF misappropriated APL cars and failed to observe requirements in the private car mileage tariff, ICC PHJ 6007-J. On July 10, 1997, BNSF filed its answer to the complaint. A decision served July 25, 1997, established a procedural schedule.

On November 5, 1997, APL and BNSF filed a joint motion for a revised procedural schedule. The parties request additional time to allow them to complete discovery in an orderly and efficient manner. They propose the following revised procedural schedule:

December 22, 1997	Discovery to be completed
February 3, 1998	APL's opening evidence due
March 19, 1998	BNSF's reply evidence due
April 20, 1998	APL's rebuttal evidence due
May 19, 1998	If necessary, APL and BNSF will file briefs

Good cause exists to grant the joint motion, with one exception. The parties have not proposed who will decide whether the filing of briefs is "necessary" or what would constitute necessity. To remove this ambiguity, we will modify the proposed schedule to provide that "APL and BNSF will file briefs" on May 19, 1998. The parties may seek relief from this requirement. The revised procedural schedule, as modified, is adopted.

It is ordered:

1. The parties must comply with the revised procedural schedule set forth in this decision.

2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary

Vernon A. Williams  
Secretary

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