

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. WCC-105

DHX, INC.

v.

MATSON NAVIGATION COMPANY AND SEA-LAND SERVICE, INC.

Decided: May 30, 2003

This case involves a challenge by DHX, Inc. (DHX), a freight forwarder, to the reasonableness of certain rates and practices of Matson Navigation Company (Matson) and Sea-Land Service, Inc., now SL Service, Inc. (SL) (defendants), two water carriers in the noncontiguous domestic trade between the United States mainland and Hawaii. In a decision served in this proceeding on March 28, 2002, DHX was directed to file an amended complaint and a procedural schedule was adopted. DHX filed its amended complaint on April 29, 2002. Both Matson and SL filed answers. In a subsequent decision served on May 14, 2003, the Board denied a motion filed by DHX seeking an order directing Matson to submit more definite responses to 50 of the answers that it filed to the amended complaint; granted a motion filed by SL seeking dismissal of two counts of the amended complaint; and extended the time until June 30, 2003, for the parties to complete outstanding discovery matters before restarting the procedural schedule.¹

In a motion filed on May 27, 2003, DHX requests that the due date for completing discovery matters be extended until August 30, 2003. DHX states that the parties had exchanged interrogatories and document production requests as well as notices for depositions before the procedural schedule was suspended. Although the Board dismissed the amended complaint in part, DHX submits that substantial claims and issues remain to be resolved. DHX states that it needs an extension of the discovery period to accommodate the schedule of its counsel who is required to respond to discovery requests and take depositions throughout the month of June 2003 involving a proceeding before the Federal Maritime Commission. In addition, DHX's president assertedly has a long established trip to Asia scheduled for June 16-28, 2003, that cannot be rescheduled. DHX submits that the parties held a telephone conference to discuss the scheduling in this proceeding on May 22, 2003. According to DHX, counsel for SL took no position regarding DHX's scheduling conflicts; and, although counsel for Matson objected to any change in the schedule, he indicated that if the discovery schedule is extended,

¹ The procedural schedule was suspended pending further order of the Board in a decision served on June 6, 2002.

that the month of July 2003 would not be a good month in his schedule. Under the circumstances, DHX submits that an extension of time until August 30, 2003, should be sufficient to enable the parties to take the previously scheduled depositions and resolve other discovery disputes.

An extension until August 30, 2003, is too lengthy and has not been justified. However, a brief extension of time is warranted in light of the conflicts in the schedules of DHX's counsel and its president. Accordingly, the deadline for completing discovery in this proceeding will be extended until July 14, 2003.

It is ordered:

1. DHX's request to extend the due date for completing discovery matters is granted in part.
2. The deadline for completing discovery is extended to July 14, 2003.
3. Upon completion of discovery, the parties should confer and submit a joint proposal for a new procedural schedule.
4. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary