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SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35406

PORTLAND & WESTERN RAILROAD, INC.—PETITION FOR DECLARATORY
ORDER—RK STORAGE & WAREHOUSING, INC.

Decided: September 28, 2010

In this decision, the request of RK Storage & Warehousing, Inc. (RK) for an extension of time to file a reply is granted. On September 8, 2010, Portland & Western Railroad, Inc. (P&W) filed a petition for declaratory order, pursuant to a court order of referral in Portland & Western Railroad v. RK Storage & Warehousing, Inc., No. 0907-10274 (Or. Cir. Ct., Multnomah County Feb. 18, 2010). P&W here seeks an order declaring that demurrage charges that RK has failed to pay for keeping rail cars beyond a stated “free time” are reasonable under the Interstate Commerce Act.

RK’s reply to the petition for declaratory order is due on September 28, 2010. RK seeks an extension of 2 months for submitting its reply, citing the need for additional time to review and respond to the materials in the petition and for discovery.

P&W objects to the 2-month extension as unnecessary and a delaying tactic. Nonetheless, P&W does not object to a reasonable amount of additional time for RK to reply to the petition.

In this case, an additional 2 months (60 days) is a reasonable extension of time to permit RK to conduct discovery and to submit a reply to the petition. Accordingly, the request for extension will be granted, and RK’s reply will be due on November 29, 2010.

It is ordered:

1. RK’s request for an extension of time to file its reply is granted, and RK’s reply is due on or before November 29, 2010.
2. This decision is effective on its service date.

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