

SERVICE DATE – JANUARY 26, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42084

CF INDUSTRIES INC v. KANEB PIPE LINE PARTNERS, L.P.
AND KANEB PIPE LINE OPERATING PARTNERSHIP, L.P.

Decided: January 25, 2006

In a decision served on August 12, 2004, in this rate complaint case, the Board directed Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P. (collectively, Kaneb) to stop charging rates to CF Industries, Inc. (CFI) for the pipeline transportation of anhydrous ammonia in excess of those prescribed in CF Industries Inc. v. Koch Pipeline Company, L.P., STB Docket No. 41685 (STB served May 9, 2000), aff'd sub nom. CF Industries, Inc. v. STB, 255 F.3d 816 (D.C. Cir. 2001, and to pay reparations.¹ The Board also noted that there could be changed circumstances associated with Kaneb's purchase of the pipeline from Koch that might warrant vacating the prescription, and asked for additional evidence on that issue. The evidence was timely submitted, an oral argument was held, and post-argument briefs were filed in June 2005.

The Board subsequently learned that Kaneb was acquired by Valero L.P. (Valero) by stock purchase in July 2005. In a decision served on November 3, 2005, the agency requested more information about that transaction because of its possible implications for the instant proceeding. The Board ordered Kaneb to submit, by November 23, 2005, a supplemental pleading detailing the terms and conditions of Valero's acquisition of Kaneb, and to describe the impact, if any, of that transaction on the issues and arguments before the agency in this case. The Board stated that CFI and Dyno could file replies by December 5, 2005, and that the parties should then be prepared to attend a conference with Board staff.

Kaneb submitted a supplemental brief on November 22, 2005. The pleading responded in part to the Board's request by providing portions of two merger agreements and briefly describing Kaneb's acquisition by and merger with Valero. Kaneb claimed, however, that it needed additional time to prepare a more complete response to the Board's order. Kaneb explained that a final purchase price accounting had not yet been completed, but that it could be done by January 31, 2006. Kaneb asked that its supplemental filing be made due on that date,

¹ On October 13, 2004, the Board granted a petition filed by Dyno Nobel Inc. (Dyno) to intervene in this proceeding. Dyno is the complainant in a related proceeding pending before the Board, Dyno Nobel Inc. v. Kaneb Pipe Line Partners, L.P., STB Docket No. 42081.

and replies be made due on February 14, 2006. Dyno filed a reply. The Board granted Kaneb's extension request in a decision served on December 2, 2005.

On January 25, 2006, Kaneb filed another extension request. It explains that, although the preliminary purchase price accounting calculations have been completed, more time is needed to confirm the figures. Accordingly, Kaneb asks that its supplemental filing be made due on March 31, 2006. It notes that Dyno and CFI support or do not oppose the instant extension request, but that Dyno will not agree to any further extension requests.

Kaneb's extension request is reasonable and will be granted. The final accounting calculations will be directly responsive to the Board's November 3 request. Kaneb's supplemental filing now will be due on March 31, 2006, and replies may be filed by April 14, 2006. The Board will carefully examine any future extension requests in light of the circumstances. The parties should be ready to attend a conference after April 14, 2006.

It is ordered:

1. Kaneb's supplemental pleading is due by March 31, 2006.
2. Replies from CFI and Dyno are due by April 14, 2006.
3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary