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LAW OFFICE
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THOMAS F. MCFARLAND

January 27, 2006

By electronic mail

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Finance Docket No. 34802, *PYCO Industries, Inc. -- Alternative Rail Service*
-- South Plains Switching, Ltd. Co.

Dear Mr. Williams:

The Board's decision served January 26, 2006 in the above proceeding requires South Plains Switching, Ltd. Co. (SAW) and West Texas & Lubbock Railway Company, Inc. (WTL) to promptly enter into operating protocols that will allow for safe joint operations.

SAW and WTL have been unable to agree on operating protocols.

SAW's position is that WTL should be authorized to provide service to PYCO on weekdays from 9 AM to 2 PM. As stated on page 6 of the Board's decision, that is what PYCO itself has requested. SAW is agreeable to complying with PYCO's request, but SAW should not be required to agree to more than that.

WTL's position is that it should be authorized to provide service to PYCO from 7 AM to 7 PM weekdays and weekends. That position is unreasonable. It is more than twice the hours of service that PYCO itself requested. WTL would have the same amount of time to serve one customer as SAW would have to serve 17 customers. It would make SAW's only Lubbock yard inaccessible during all daylight hours. It would require SAW to serve its customers in darkness when they would not be in operation. It would require SAW to cross numerous roads in the dead of night.

There is no justification for an operating time for WTL more than requested by PYCO. WTL and PYCO may point to a backlog of cars for PYCO in SAW's yard, but the number of cars for PYCO is only marginally more than when PYCO filed its Petition and asked for a 9 AM - 2 PM service time. Certainly, such a marginal increase does not come close to justifying an increase in service time of more than 100 percent to 12 hours from the 5 hours requested by

THOMAS F. MCFARLAND

Vernon A. Williams, Secretary

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PYCO. Neither is there the slightest justification for allocating all daylight hours to WTL, and requiring SAW to operate in the dead of night.

Furthermore, a backlog is largely of PYCO's own doing. As shown by SAW train records attached as Appendix A, PYCO has not requested rail service at Plant 2 on nine weekdays since January 14, and PYCO has declined SAW's offer of weekend rail service for the past two weekends -- January 14-15 and January 21-22. WTL is not entitled to additional service time at SAW's expense on the ground of a backlog of PYCO cars when the backlog was largely caused by PYCO's own failure to have taken advantage of SAW's rail service.

The undersigned takes issue with PYCO's contention that SAW was intransigent in negotiations for operating protocols. On the contrary, yesterday I made the following offers in behalf of SAW:

- (1) Service from 9 AM to 2 PM five days per week, as requested by PYCO. I requested an explanation of why that service time would no longer be adequate to meet PYCO's needs. No such explanation was forthcoming. SAW did not offer weekend service because PYCO had not requested weekend service and turned down SAW's offer of weekend service for the past two weekends in a row.
- (2) Access to Plant 2 via SAW Track 9298. This is a direct, uncongested route from SAW's yard to Plant 2. I impressed on WTL's representatives that SAW has absolutely no control over cars that may be on the track on Farmers Compress's property because Farmers Compress has control of that track. In fact, the track runs through loading sheds inside Farmers Compress's property. Use of Track 9298 to serve Plant 2 would avoid problems associated with use of the Farmers Compress track. The Board should be aware that it is beyond SAW's power to comply with an order to keep the Farmers Compress track clear of cars.
- (3) Use of Track Nos. 1 and 5 in SAW's Yard and operation over the main track to provide service to Plant 1. Tracks 1 and 5 have the capacity to accommodate 60 to 65 cars at a time, depending on car length. That is adequate track capacity.

Those are meaningful negotiating positions. I was the one who initiated negotiations yesterday morning. WTL and PYCO imply that they were willing to negotiate, but they never offered less than the unreasonable 12-hour service window that they seek.

PYCO and WTL refer exclusively to PYCO's service needs. But as a common carrier, SAW has an obligation to consider the needs of its other 17 customers at Lubbock, as well. The

THOMAS F. MCFARLAND

Vernon A. Williams, Secretary

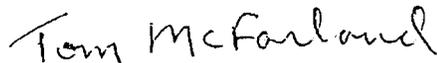
January 27, 2006

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statute requires the Board to consider the needs of those customers, too. It is provided in 49 U.S.C. § 11123(c)(2)(B) that in ordering alternative service the Board may not take action that would substantially impair the ability of a rail carrier to serve its customers adequately or to fulfill its common carrier obligations. The 9 AM-2 PM operating time requested by PYCO and agreed to by SAW would allow SAW to serve its other customers adequately. The 7 AM-7 PM operating time now requested by WTL and PYCO would not. Accordingly, the Board should order an operating time of 9 AM-2 PM.

In an effort to put an end to the conflict of personalities which may have contributed to the current litigation, Mr. Larry D. Wisener has resigned as President and General Manager of SAW, effective January 26, 2006. Mr. Wisener's letter of resignation is attached as Appendix B. Attached as Appendix C is a copy of a letter to the Board dated January 26, 2006 from Mrs. Delilah Wisener, owner of record of SAW, advising the Board that Mr. Wisener's resignation has been accepted and that Mrs. Wisener and I intend to enter into negotiations with PYCO representatives to reach a reasonable resolution of the situation. If PYCO is agreeable to negotiations, Mr. Larry Wisener would not be involved in such negotiations in any way.

Very truly yours,



Thomas F. McFarland
*Attorney for South Plains
Switching, Ltd. Co.*

TMcF:kl:enc:wp8.0\1144\e-filestb2

cc: Charles H. Montange, Esq., *by fax to 206-546-3739*
John Heffner, Esq., *by fax to 202-296-3939*
Mr. Mel Clemens, *by fax to 202-565-9011*
STB Office of Proceedings, *by fax to 202-565-9002*
Mrs. Delilah Wisener, *by fax to 806-828-4863*
Mr. Dennis Olmstead, *by fax to 970-249-4099*

APPENDIX A

0945 PYCO Plant I 1-18-06

4 MTY TANKS

~~X~~ MTY Box

2 per Richardo

UTLX 664188

ABOX 52260

NATX 250720

RBOX 34442

DBUX 250494

NATX 250976

PYCO Plant II 1-18-06

(pulled @ 0800 6 Gons)

0 GONS

0 BOXES

0 TANKS

No Spot @ Plant II today

09/05/2005 02:30 7623659
Jan 18 06 03:13p SAW/SLAL
JRN-18-E006(VE0) 10:52 PYCO Industries

SOUTH PLAINS SW CO
806 828 4863
(FRX)7643221

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p.1
M. LUI/UVI

PYCO INDUSTRIES, INC.
P.O. BOX 841
LUBBOCK, TX 79408
5806-747-3434

SWITCHING LIST

DATE: 1/19/2006

PLANT #1

IN - SCALE TRACK	OUT-SHOP TRACK
0 EMPTY GONDOLA CARS	SEE RELEASE
2 EMPTY TANK CARS - BROX 5026 AND UTLX 865328	
1 LOADED TANK - NATX 250313	

PLANT #2

IN	OUT
NO CARS	

EL BAYNE
1/19/06
5.12 pm
W. SZ
Y. W.

09/05/2005 02:30 7623659
Jan 20 06 08:08a SAW/SLAL
PSCU INDUSTRIES

SOUTH PLAINS SW CO
800 020 4000
(FAX) 7443221

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P. 001/001

PYCO INDUSTRIES, INC.
P.O. BOX 841
LUBBOCK, TX 79408
5806-747-3434

SWITCHING LIST

DATE: 1/20/2008

PLANT #1

IN - SCALE TRACK	OUT-SHOP TRACK
5 EMPTY GONDOLA CARS	SEE RELEASE
5 EMPTY TANK CARS <i>per Robert</i>	
1 LOADED TANK - NATX 250313 <i>Not on saw</i>	
3 EMPTY BOX CARS <i>per Richard</i>	

PLANT #2

IN	OUT
NO CARS	

*Called Les @ 10:15 to offer
weekend switching, Les Declined
a weekend switch @ 11:00 am.*

PYCO INDUSTRIES, INC.
P.O. BOX 841
LUBBOCK, TX 79408
805-747-3434

SWITCHING LIST

Date: 01/23/06

PLANT #1	
IN - SCALE TRACK	OUT - SHOP TRACK
4 empty tank cars	see release
0 empty hopper cars	8 loaded Gondola cars
0 loaded hopper cars	
8 empty Gondola cars	<i>+ 2 MTY Hoppers per Richard</i>
2 empty box car	

Push cars onto scale track

Pull cars from shop track

PLANT #2	
IN	OUT
0 empty Gondola cars	0 Loaded Gondola cars
0 empty box cars	see release
0 empty tank cars	

CONTACT:
Ronnie Gilbert 535-3401
Les Howell 632-0745

EL FAXED *to RL*
1/23/06
@ 810 AM
h

JAN-23-2006(MON) 16:54 PYCO Industries

(FRN)7443221

P. 001/001

PYCO INDUSTRIES, INC.
P.O. BOX 841
LUBBOCK, TX 79408
806-747-3434

SWITCHING LIST

Date: 01/24/06

PLANT #1

<u>IN - SCALE TRACK</u>	<u>OUT - SHOP TRACK</u>
4 empty tank cars	see release
2 empty hopper cars	6 loaded Gondola cars
2 loaded tank cars(NATX 250726, PLCX 221802)	
4 empty Gondola cars	
0 empty box car	

Push cars onto scale track

Pull cars from shop track

PLANT #2

<u>IN</u>	<u>OUT</u>
0 empty Gondola cars	0 Loaded Gondola cars
0 empty box cars	see release
0 empty tank cars	

CONTACT:
Ronnie Gilbert 535-3401
Les Howell 632-0745

PYCO INDUSTRIES, INC.
P.O. BOX 641
LUBBOCK, TX 79408
806-747-3434

SWITCHING LIST

Date: 01/26/06

PLANT #1

<u>IN - SCALE TRACK</u>	<u>OUT - SHOP TRACK</u>
1 empty tank cars	see release
0 empty hopper cars	0 loaded Gondola cars
3 loaded tank cars (ACFX 05738, 05759, 05774)	
4 empty Gondola cars	
2 empty box car	

4
par Richard

Push cars onto scale track

Pull cars from shop track

PLANT #2

<u>IN</u>	<u>OUT</u>
0 empty Gondola cars	0 Loaded Gondola cars
0 empty box cars	see release
0 empty tank cars	

CONTACT:
Ronnie Gilbert 535-3401
Les Howell 632-0746

PAVED TO SHW

PYCO Plant I 1-19-06 0900

9 MTY GONS	2 MTY TANKS	1 LOADED TANK
BW 585218	4 PER RICHARD	PLCX 220788
587488	UTX 665328	
587230	BRCX 3026	
587097	NATX 250966	
587333	NATX 251012	
587068	(Requested LOADED TANK NATX 250313 NOT ON SAW)	
587179		
587454		
587006		

PYCO Plant II 1-19-06

NO CHRS Requestal

0840 PYCO

1-20-06

2 MTY Box CARS
3 per Richard

4 MTY Tanks
5 per Robert
ACFX 95757

5 MTY Gons

HPSX 147582

BN 585291

BN 587398

HPSX 147593

BN 585340

ABOX 52098

NATX 251015

ABOX 50036

ACFX 95749

RBOX 33499

NATX 250991

NATX 250467

(CAR - NATX 250813 T L)
Still not on SHW

All

FROM

P. COU

No CARS requested @ PYCO Plant II

1-23-06 PYCO Plant 1 1000
All From P. Col

<u>4 MTY TANKS</u>	<u>6 MTY GONS</u>	<u>2 MTY Boxes</u>
NATX 250465	BNSF 541116	A Box 51245
NATX 251005	BN 585330	ATSF 600670
DBUX 250411	BN 587396	
ACFX 95737	BN 587366	<u>2 MTY Hoppers</u> <u>per Richard</u>
	BN 587245	NOKL 822028
	BN 587473	BN 468639

1-23-06 PYCO Plant II

-O- CARS ORDERED Today

PYCO INDUSTRIES, INC.
P.O. BOX 841
LUBBOCK, TX 79408
808-747-3434

SWITCHING LIST

Date: 01/24/08

PLANT #1

<u>IN - SCALE TRACK</u>	<u>OUT - SHOP TRACK</u>
4 empty tank cars	see release
2 empty hopper cars	6 loaded Gondola cars
2 loaded tank cars (NATX 250726, PLCX 221602)	
4 empty Gondola cars	
0 empty box car	

Push cars onto scale track

Pull cars from shop track

PLANT #2

<u>IN</u>	<u>OUT</u>
0 empty Gondola cars	0 Loaded Gondola cars
0 empty box cars	see release
0 empty tank cars	

CONTACT:

Ronnie Gilbert 535-3401
Les Howell 632-0745

1-25-06 PYCO Plant 1 0900

1 MTY TANK

3 LOADED TANKS

~~6~~ MTY GONS
4 per Richard

NATX 250730

ACFX 95759

BN 587292

ACFX 95736

BN 587298

2 MTY Boxes

ACFX 95774

BN 587350

BN 587241

ATSF 600606

RBOX 32439

1-25-06 PYCO Plant II

NO CMA ordered

1-24-06 PYCO Plant 1 0900

4 MTY Tank CARS

4 MTY GONS

1 MTY Hopper

NATX 250574

BN 587533

NOKL 826582

ACFX 95716

BN 587631

NATX 250709

BN 587180

1 LOADED Hopper
per Richards

NATX 250728

BN 587211

CRDX 11286

2 LOADED TANKS

NATX 250726

PLCX 221602

Notes: ordered 2 MTY Hoppers, only
have 1 ON LINE. NO GONS

LOADED for Release spot

12 TOTAL CARS All from P-CON

1-24-06 PYCO Plant 2

NO CARS ordered

NO CARS out

PYCO INDUSTRIES, INC.
P.O. BOX 841
LUBBOCK, TX 79408
806-747-3434

SWITCHING LIST

Date: 01/23/08

PLANT #1	
IN - SCALE TRACK	OUT - SHOP TRACK
4 empty tank cars	see release
0 empty hopper cars	8 loaded Gondola cars
0 loaded hopper cars	
6 empty Gondola cars	+ 2 MTY Hoppers per Richard
2 empty box car	

Push cars onto scale track

Pull cars from shop track

PLANT #2	
IN	OUT
0 empty Gondola cars	0 Loaded Gondola cars
0 empty box cars	see release
0 empty tank cars	

CONTACT:

Ronnie Gilbert 535-3401
Les Howell 832-0745

FILED TO SH
1/23/08
@ 8:10 AM
H

2006

- Jan 14 & 15 - P/CO declined service
- Jan. 16 - SAW spotted 18 cars to P/CO
P/CO released 28 cars
- Jan 17 - SAW spotted 20 cars to P/CO
P/CO released 12
- Jan 18 - SAW spotted 6 cars to P/CO
P/CO released 22
- Jan. 19 - SAW spotted 14 cars to P/CO
P/CO released 5
- Jan. 20 - SAW spotted 13 cars to P/CO
P/CO released 12
- Jan 21 & 22 P/CO declined service
- Jan 23 - SAW spotted 14 cars to P/CO
P/CO released 17
- Jan 24 - SAW spotted 12 cars to P/CO
P/CO released 10
- Jan 25 - SAW 10 cars to P/CO
P/CO released 7

APPENDIX B

(SAW)

P. O. BOX 64299

LUBBOCK, TEXAS 79464

PHO: (806)828-4841

FAX: (806)828-4863

January 26, 2006

Mrs. Delilah Wisener
Owner/Sect/Treas
South Plains Switching, Ltd. Co.
P. O. Box 64299
Lubbock, Texas 79464

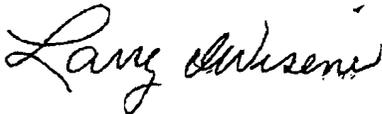
Mrs. Wisener:

I respectfully submit my resignation as President and Operating Manager of South Plains Switching, Ltd. Co., effective immediately, January 26, 2006.

I would like to apologize to you, the Board Members and the employees of South Plains Switching for the embarrassment and the working relationship with your customer that I have caused by having the Surface Transportation Board render a decision against your operations.

I would suggest that you utilize your legal counsel to advise you in making any decisions regarding operations until you find another General Manager, unless you decide to take over daily operations yourself.

Respectfully,



Larry D. Wisener

APPENDIX C

**SOUTH PLAINS SWITCHING, LTD. CO.
(SAW)**

**P. O. BOX 64299
PHO: (806)828-4841**

**LUBBOCK, TEXAS 79464
FAX: (806)828-4863**

January 27, 2006

Hon. Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N. W.
Washington, D. C. 20423-0001

RE: PYCO Industries Inc. Alternative Rail Service

Dear Mr. Secretary:

As owner of South Plains Switching, Ltd. Co., I accepted Larry D. Wisener's resignation as President and General Manager effective January 26, 2006.

I would like to request the Board to review its decision to allow WTL to provide alternative service to PYCO. I request that I be allowed with my attorney, Mr. Tom McFarland, to enter into negotiations with PYCO representatives to reach a reasonable resolution to this situation.

Respectfully submitted,



Delilah Wisener
Owner
South Plains Switching