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January 16, 2008

By e-filing

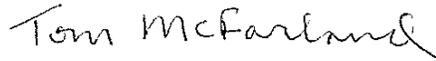
Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Re: Finance Docket No. 35111, *South Plains Switching, Ltd. Co. -- Compensation For Use Of Facilities In Alternative Rail Service -- West Texas and Lubbock Railway Company*

Dear Ms. Quinlan:

Hereby transmitted is a Motion to Compel for filing with the Board in the above referenced matter.

Very truly yours,



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

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cc: Charles Montange, Esq.) *by e-mail & UPS*
John Heffner, Esq.) *by e-mail & UPS*
Mr. Larry Wisener) *by e-mail*
Mr. Dennis Olmstead) *by e-mail*

BEFORE THE
SURFACE TRANSPORTATION BOARD

SOUTH PLAINS SWITCHING, LTD. CO.)
-- COMPENSATION FOR USE OF) FINANCE DOCKET
FACILITIES IN ALTERNATIVE RAIL) NO. 35111
SERVICE -- WEST TEXAS AND)
LUBBOCK RAILWAY COMPANY)

MOTION TO COMPEL

SOUTH PLAINS SWITCHING, LTD. CO.
P.O. Box 64299
Lubbock, TX 79464-4299

Petitioner

THOMAS F. McFARLAND
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208 South LaSalle Street, Suite 1890
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Attorney for Petitioner

DATE FILED: January 16, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD

SOUTH PLAINS SWITCHING, LTD. CO.)
-- COMPENSATION FOR USE OF) FINANCE DOCKET
FACILITIES IN ALTERNATIVE RAIL) NO. 35111
SERVICE -- WEST TEXAS AND)
LUBBOCK RAILWAY COMPANY)

MOTION TO COMPEL

Pursuant to 49 C.F.R. § 1114.31(a), SOUTH PLAINS SWITCHING, LTD. CO. (SAW) hereby moves that the Board compel WEST TEXAS AND LUBBOCK RAILWAY COMPANY (WTLC) to respond to Discovery that was submitted by SAW to WTLC on December 12, 2007. A copy of that Discovery is attached to this Motion.

This Motion is being filed more than 10 days after the expiration of the period allowed for submission of responses to such Discovery (that period expired on December 27, 2007). *See* 49 C.F.R. § 1114.31(a). The Board is respectfully requested to grant leave to SAW to file this Motion out of time. A grant of such leave is justified because (1) WTLC stated informally that it would require a minimum of 14 business days to compile the information needed for responses to the Discovery; SAW expected that it would receive responses to Discovery at that later date (i.e., on or about January 4, 2008), but no such responses have been forthcoming; (2) the Christmas and New Year Holiday Season coincided with the time for WTLC to respond to the Discovery; and (3) WTLC would not be prejudiced as a result of having additional time to respond to such Discovery.

This Motion should be granted because the information sought in Discovery is clearly relevant to the subject matter of this proceeding. See 49 C.F.R. § 1114.21(a). That subject matter is compensation for use of SAW's facilities in the provision of alternative rail service under 49 U.S.C. § 11123(a) and 49 U.S.C. § 11102(a). That compensation is likely to be stated in an amount of money per loaded railcar transported by WTLC pursuant to that alternative service.^{1/} The Discovery at issue seeks information regarding the number of loaded railcars transported by WTL pursuant to that alternative rail service. Thus, the Discovery is aimed at the service units to which a compensation formula would apply, not at a compensation formula itself. There is no legitimate reason for WTL to refuse to furnish that non-controversial information.

WHEREFORE, the Board should compel responses to the Discovery submitted by SAW to WTL on December 12, 2007.

Respectfully submitted,

SOUTH PLAINS SWITCHING, LTD. CO.
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^{1/} The informal offers of compensation made by both WTL and SAW were stated in amounts per loaded railcar.

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**DISCOVERY SUBMITTED BY SOUTH PLAINS SWITCHING, LTD. CO.
TO WEST TEXAS AND LUBBOCK RAILWAY COMPANY**

SOUTH PLAINS SWITCHING, LTD. CO.
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Attorney for Petitioner

DATE SUBMITTED: December 12, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD

SOUTH PLAINS SWITCHING, LTD. CO.)
-- COMPENSATION FOR USE OF) FINANCE DOCKET
FACILITIES IN ALTERNATIVE RAIL) NO. 35111
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LUBBOCK RAILWAY COMPANY)

**DISCOVERY SUBMITTED BY SOUTH PLAINS SWITCHING, LTD. CO.
TO WEST TEXAS AND LUBBOCK RAILWAY COMPANY**

Pursuant to 49 C.F.R. § 1114.26 and 49 C.F.R. § 1114.30, SOUTH PLAINS SWITCHING, LTD. CO. (SAW) hereby submits discovery to West Texas and Lubbock Railway Company (WTLC), to be responded to in writing under oath no later than 15 days after WTLC's receipt of such discovery.

INTERROGATORY

1. Please list by date of shipment the loaded railcars that were transported by WTLC for PYCO Industries, Inc. between the following dates, shown separately:
 - a. Between January 26, 2006 and November 22, 2006, inclusive;
 - b. Between November 23, 2006 and December 31, 2006, inclusive; and
 - c. Between January 1, 2007 and November 9, 2007, inclusive.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Please provide copies of waybills corresponding to the loaded railcars identified in Interrogatory No. 1 above.

Respectfully submitted,

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Attorney for Petitioner

DATE SUBMITTED: December 12, 2007

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2008, I served the foregoing document, Motion to Compel, on John D. Heffner, Esq., John D. Heffner, PLLC, 1750 K Street, N.W., Suite 350, Washington, DC 20006, *j.heffner@verizon.net* and Charles H. Montange, Esq., 426 N.W. 162nd Street, Seattle, WA 98177, *c.montange@verizon.net* by e-mail and UPS overnight mail.

Thomas F. McFarland

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