

STB Finance Docket No. 34236

BOLEN–BRUNSON–BELL LUMBER COMPANY, INC.

v.

CSX TRANSPORTATION, INC.

Ex Parte No. 346 (Sub-No. 25)

RAIL GENERAL EXEMPTION AUTHORITY–LUMBER  
OR WOOD PRODUCTS

Statement of Christopher Oehrle, Staff Attorney, Office of Proceedings

Good morning again.

A related decision submitted for your consideration concerns an embargo complaint filed by BBB in Finance Docket No. 34236. BBB alleges that CSXT violated its common carrier obligation to provide service upon request because the embargo became unreasonable shortly after it was imposed on the 1.1-mile line in the Memphis, TN area over which CSXT served it. The railroad denies that the embargo ever became unreasonable.

An embargo temporarily excuses a carrier from its common carrier obligation, but it must restore safe service within a reasonable period of time. The reasonableness of an embargo is a case-by-case, fact-specific inquiry typically considering various factors, such as: the cost of repairs necessary to restore service, the amount of traffic on the line, the carrier's intent, the length of the service cessation, and the financial condition of the carrier.

The decision before you weighs the applicable factors. First, the costs for CSXT to make the necessary repairs so that it would be able to safely operate over the bridge would far exceed the annual profits that CSXT might expect from the anticipated traffic from the line. Second, CSXT acted promptly in seeking abandonment or discontinuance authority. Third, the fact that it had the overall financial resources to make costly repairs does not mean that it had to

do so before it obtained a determination from the Board as to its future responsibilities for this line. When weighed together, the draft decision before you finds that the embargo was not unreasonable, given the magnitude of the repair expenses and the pendency of the regulatory proceedings to resolve the future status of the line.

This concludes my statement. We would be happy to answer any questions you might have.