

SURFACE TRANSPORTATION BOARD DISMISSES TWO RAIL RATE CASES AFTER PARTIES REACH SETTLEMENT

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has terminated its consideration of two more rail rate complaints after the parties reached negotiated settlements. One of the complaints, filed by PSI Energy, Inc., involved the transportation of coal by CSX Transportation, Inc. (CSX) and Soo Line Railroad Company doing business as Canadian Pacific Railway. The other complaint, filed by Pennsylvania Power & Light Company, involved the transportation of coal by CSX, Consolidated Rail Corporation, and Norfolk Southern Railway Company.

Under the law, the Board has jurisdiction to review complaints that railroad rates are too high. Typically, rail rate cases involving repetitive movements of large volumes of traffic are handled under the Board's "constrained market pricing" principles (CMP). Under the "stand-alone cost" (SAC) test used in the CMP analysis, the Board measures the reasonableness of a rate by determining what a hypothetical optimally efficient carrier would need to charge to serve a limited group of traffic selected by the complainant, including the traffic involved in the rate complaint.

Since it was created after passage of the ICC Termination Act in December 1995, the Board has issued substantive decisions in three SAC cases. In two of the cases, the complaining shipper prevailed and obtained substantial rate relief and reparations, while in one, the Board found that the challenged railroad rates had not been shown to be unreasonable.

The development of a body of SAC case law in recent years has facilitated the ability of shippers and railroads to resolve their rate issues privately. When private industry has the ability to predict, with some degree of certainty, the outcome of regulatory proceedings, parties may be able to reach agreements without resort to the regulatory process. And even when the regulatory process is engaged, the existence of a body of case law can give parties certain leverage and facilitate settlements. The two settlements reached here reflect a trend, as parties continue to reduce their reliance on the regulatory process. Other rail rate cases settled since December 1995 involved Kansas City Power and Light Company; South-West Railroad Car Parts Company; Western Resources, Inc.; Potomac Electric Power Company; Armstrong World Industries, Inc.; Sierra Pacific Power Company and Idaho Power Company; and Shell Oil Company.

The Board's decisions were issued today in *PSI Energy, Inc. v. CSX Transportation, Inc. and Soo Line Railroad Company d/b/a Canadian Pacific Railway*, Docket No. 42034, and *Pennsylvania Power & Light Company v. Consolidated Rail Corporation, CSX Transportation, Inc. and Norfolk Southern Railway Company*, Docket Nos. 42034 and 41295. The decisions are available on the Board's website at www.stb.dot.gov.

###