

SERVICE DATE – APRIL 27, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42142

CONSUMERS ENERGY COMPANY

v.

CSX TRANSPORTATION, INC.

Decided: April 27, 2015

On January 13, 2015, Consumers Energy Company (Consumers) filed a complaint challenging the reasonableness of rates established by CSX Transportation, Inc. (CSXT) for unit train coal transportation service in shipper-supplied rail cars to Consumers' generating station near West Olive, Mich., from CSXT's established railroad interchange with BNSF Railway Company in the vicinity of Chicago, Ill. Consumers alleges that CSXT possesses market dominance over the traffic and that CSXT's rates are unreasonable under both the Stand-Alone Cost constraint and the Revenue Adequacy constraint. CSXT filed its answer to the complaint on February 2, 2015.¹ The Board entered a protective order in this proceeding on March 18, 2015.

On March 16, 2015, Consumers filed a motion to compel discovery from CSXT, seeking the production of documents in response to several of its production requests and substantive answers in response to several of its interrogatories. CSXT responded on March 26, 2015. On April 3, 2015, the Board issued a decision noting that the parties had not yet conferred on the issues raised in the motion, and directing the parties to meet and confer on the discovery issues. On April 10, 2015, the parties filed a joint status report informing the Board that the parties reached agreements to resolve each of the issues and that, as a result, Consumers was withdrawing its motion.

On April 2, 2015, CSXT filed a motion to compel discovery from Consumers, seeking the production of documents and substantive answers regarding three classes of information contained in its interrogatories and requests for production. Consumers filed a reply on April 13, 2015. On April 21, 2015, Board staff held a conference with the parties to discuss CSXT's motion to compel. CSXT has now filed a motion to withdraw its motion to compel, stating that, as a result of the conference, the parties have reached an agreement that resolves the discovery disputes. CSXT represents that Consumers does not oppose the motion to withdraw.

¹ CSXT has also filed a motion to dismiss Consumers' Revenue Adequacy claim, which is pending before the Board.

The joint status report will be treated as a motion by Consumers to withdraw its motion to compel, and the motion to withdraw will be granted. CSXT's motion to withdraw its motion to compel will also be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Consumers' motion to withdraw its March 16, 2015 motion to compel is granted.
2. CSXT's motion to withdraw its April 2, 2015 motion to compel is granted.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.