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SEC

SERVICE DATE - AUGUST 19, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB No. 41881

ROCK CITY BOX CO., INC.--PETITION FOR DECLARATORY ORDER--CERTAIN RATES
AND PRACTICES OF ST. JOHNSBURY TRUCKING COMPANY, INC.

Decided: August 14, 1997

This proceeding arises out of the efforts of St. Johnsbury Trucking Company, Inc.. (respondent) to collect undercharges on certain shipments from Rock City Box Co., Inc. (petitioner). The matter is before the Board on referral from the United States District Court for the Southern District of New York.

By decision served July 15, 1996, a procedural schedule was established in this proceeding. Petitioner's opening statement was due on January 15, 1997.

By decision served July 15, 1997, the Board directed petitioner to show cause why this proceeding should not be dismissed. The Board noted that petitioner had not filed an opening statement. Petitioner failed to respond.

Because petitioner failed to respond to the Board's July 15, 1996 decision and July 15, 1997 show cause decision, the Board cannot render a decision based on the existing record. Petitioner did not reply and, by its silence, we must conclude that it is no longer interested in pursuing its petition for declaratory order. Therefore, this proceeding will be dismissed.

It is ordered:

1. This proceeding is dismissed.
2. A copy of this decision will be mailed to:

The Honorable Sonia Sotomayor
United States District Court for
the Southern District of New York
500 Pearl Street, Room 1340
New York, NY 10038

Re: Civil Case No. 95 CIV 4886(SS), Adv. No. 95/9149A

3. This decision is effective on the service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary