

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 27590 (Sub-No. 3)

TTX COMPANY, ET AL. — APPLICATION FOR APPROVAL
OF POOLING CAR SERVICE WITH RESPECT TO FLATCARS

Decided: June 28, 2004

In a decision in this proceeding served on June 22, 2004, the Board stated that it will hold an oral argument on July 7, 2004, beginning at 10:00 a.m., in Room 760 (the Board's Hearing Room) at the Board's headquarters in the Mercury Building, 1925 K Street, N.W., Washington, D.C. In that decision, interested parties were instructed to advise the Board by June 28, 2004, if they wished to participate in the oral argument. In addition, the Board directed parties wishing to participate in oral argument to file by no later than July 2, 2004, an original and 10 copies of a summary (not to exceed 3 pages) of the specific points that the interested party's speaker will address.

On June 24, 2004, counsel representing First Union Rail Corporation (FURC), David J. Joseph Co. (DJJ), and Bombardier Rail Capital Inc. (BCRI) filed a request (joint request) to postpone the oral argument until July 28, 2004. Counsel argues that such an extension is warranted because of the short notice before the argument, the unavailability of certain key personnel of FURC, DJJ, and BCRI during the summer months, and a need for additional time to review, and prepare a response to, TTX Company's (TTX) rebuttal.

Also on June 24, 2004, TTX responded in opposition to the joint request. TTX states that it is prepared to go forward with oral argument as scheduled on July 7, 2004. Noting that its rebuttal was filed approximately 6 weeks earlier on May 12, 2004, TTX argues that counsel for FURC, DJJ, and BCRI has had adequate time not only to review the rebuttal, but also to respond to issues raised in it. In support of its position, TTX observes that FURC, DJJ, and BCRI joined with other parties of record in filing "Certain Commenting Parties Motion for Leave to Supplement the Record and Submission of Additional Facts," which was a response to matters discussed in TTX's rebuttal.

The Board will deny the request for a postponement of the oral argument. By the July 7 oral argument, counsel for FURC, DJJ, and BCRI will have had about 8 weeks to review TTX's rebuttal filing, which is adequate time to assess and consider any response to TTX's filings.

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

It is ordered:

1. The joint request for postponement of oral argument is denied. Pursuant to the Board's decision served on June 22, 2004, oral argument in this proceeding will be held on Wednesday, July 7, 2004, beginning at 10 a.m., in the Surface Transportation Board Hearing Room (Room 760), at 1925 K Street, N.W., Washington, D.C.

2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary