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SURFACE TRANSPORTATION BOARD

DECISION

No. 40385

HURON VALLEY STEEL CORPORATION

v.

CSX TRANSPORTATION, INC., *ET AL.*

Decided: August 21, 1997

The complainant, Huron Valley Steel Corporation (Huron Valley), is hereby directed to show cause, within 45 days of the service of this decision, why the repeal of 49 U.S.C. 10731 by the ICC Termination Act of 1995 (ICCTA)¹ does not require dismissal of this proceeding.

On January 12, 1990, Huron Valley filed with the ICC this recyclables rate complaint, under former 49 U.S.C. 10731(e), challenging the reasonableness of charges it paid defendant railroads to serve its automobile shredder residue (ASR) facilities at Anniston, AL, and Belleville, MI. In a decision served October 6, 1992, the ICC ordered defendants to pay reparations on shipments of ASR transported to Huron Valley's two recycling facilities from 1988 to 1991 (plus interest up to and including March 30, 1992) in the amount of \$611,012. The ICC also afforded Huron Valley an opportunity to supplement the record on shipments that moved during the litigation period and on certain international movements to determine whether additional reparations should be awarded.

In response, Huron Valley submitted data on more than 250 carloads of ASR that moved from several United States and Canadian origins to its Belleville plant to show that additional reparations should be ordered. The defendant railroads replied in opposition.

Before the ICC resolved the evidentiary disputes, the ICCTA was enacted. Section 204(b)(3) of the ICCTA provides, with certain exceptions not relevant here, that proceedings being conducted under a provision of the law repealed and not reenacted shall be terminated. The ICCTA did not reenact 49 U.S.C. 10731(e), which provided special rate protection for shipments of recyclables. Thus, it appears that the ICCTA requires the dismissal of this proceeding.

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

It is ordered:

Absent a showing by Huron Valley, within 45 days of the service of this decision, that the ICCTA does not foreclose our consideration of the matters in this case, this proceeding will be discontinued.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

¹ Pub. L. No. 104-88, 109 Stat. 803 (1995). The ICCTA abolished the Interstate Commerce Commission (ICC) and transferred only selected functions and proceedings to the Surface Transportation Board. A threshold issue is whether this proceeding was statutorily transferred to us.