

BEFORE THE
SURFACE TRANSPORTATION BOARD



SEMINOLE ELECTRIC COOPERATIVE, INC

Complainant,

v

CSX TRANSPORTATION, INC

Defendant

Docket No 42110

ENTERED
Office of Proceedings
OCT 15 2008
Part of
Public Record

**CSXT'S REPORT ON THE PARTIES' CONFERENCE
PURSUANT TO 49 C F R PART 1111 10(b)**

Counsel for Complainant and Defendant have conferred to discuss procedural and discovery matters in this case, pursuant to 49 C F R § 1110 10(b). Because the parties did not agree on procedural matters, and especially the schedule that should govern these proceedings, they agreed that each would submit a brief report. This is the report of Defendant CSX Transportation, Inc ("CSXT").

As indicated, the parties did not agree upon a procedural schedule for this case. Stated simply, CSXT believes that the Board should not issue an Order containing a procedural schedule until it disposes of the important pleadings pending before it, namely CSXT's "Petition to Stay Proceedings", filed on October 10, 2008, and

Complainant Seminole Electric Cooperative's ("Seminole's") unprecedented "Petition for Injunctive Relief" (in practical effect, a request that the Board extend Seminole's rail transportation contract rates for the duration of this case), filed simultaneously with Seminole's Complaint on October 3, 2008. By contrast, Seminole believes that a schedule that is materially different from that set out in the Board's regulations at 49 C.F.R. §1111.8(a) should be adopted now, and CSXT understands that Seminole will include its suggested schedule in its separate Report to the Board.

CSXT intends to file its Reply to Seminole's request for injunctive relief by the end of this week (well in advance of the 20 days to which it is entitled under the Board's rules), and counsel for Seminole has indicated that Seminole will respond promptly to CSXT's stay request as well. As a result, the Board will soon be in a position to rule on these two important pleadings. Because the Board's rulings on the issues presented by those pleadings could have significant effects on this case, it should decide those issues before it deals with the matter of a procedural schedule.

On a different matter, the parties have agreed upon the form of a Protective Order to facilitate discovery by protecting the confidentiality of materials reflecting the terms of contracts, financial statements and data, and other confidential and proprietary information in the event that such materials are produced and/or included in evidentiary filings in this proceeding. CSXT understands that the proposed Protective Order, which is based upon similar Orders entered by the Board in recent cases brought under the

stand-alone cost constraint, will be attached to Seminole's Report, and CSXT joins with Seminole in respectfully requesting that the Board enter such Order

Finally, CSXT is agreeable to Seminole's suggestion that the parties serve all papers on their Washington counsel by hand, and that all correspondence between them (with the exception of any correspondence that is hand-delivered) shall be transmitted on the same day via the same medium to in-house counsel as designated by each party

Respectfully submitted,



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Counsel to CSX Transportation, Inc

Dated October 15, 2008

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of October, 2008, I caused a copy of the foregoing Report on the Parties' Conference Pursuant to 49 C F R § 1111 10(b) of CSX Transportation, Inc to be served by first class mail, postage prepaid or more expeditious method of delivery, a copy of all parties listed in the official service list in this proceeding



Richard Bryan