

210558

RECEIVED
Office of Proceedings
APR 12 2004
Part of
Public Record



SURFACE TRANSPORTATION BOARD

TTX COMPANY - APPLICATION FOR)
APPROVAL OF POOLING OF CAR) FINANCE DOCKET
SERVICE WITH RESPECT TO) NO. 27590 (SUB-NO. 3)
FLATCARS)

COMMENTS OF
C.K. INDUSTRIES, INC.

C.K. Industries, Inc.
1348 GREENLAND TRACE
P.O. Box 0087
Deland, FL 32721-0087
Commentor

RICHARD DEMAREST YANT
KRASNOW SAUNDERS CORNBLATH,
LLP
500 N. Dearborn, 2nd Floor
Chicago, IL 60610
(312) 755-5700
Attorney for Commentor

DUE DATE: April 12, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX COMPANY - APPLICATION FOR	)	
APPROVAL OF POOLING OF CAR	)	FINANCE DOCKET
SERVICE WITH RESPECT TO	)	NO. 27590 (SUB-NO. 3)
FLATCARS	)	

**COMMENTS OF
C.K. INDUSTRIES, INC.**

Pursuant to the Board's notice issued on February 5, 2004, and decision dated March 10, 2004, C.K. INDUSTRIES, INC. (C.K.) hereby submits comments on the application filed by TTX Company (TTX) on January 6, 2004 to extend its flatcar pooling authority for 15 years from October 1, 2004.

IDENTITY OF C.K. and C.K. COMMENTS

C.K. is a privately owned Florida corporation that has been investing in freight railroad equipment for use in the United States since 1980. It currently holds over 1,300 railroad freight cars, including box cars, covered hopper cars, open top hopper cars, and a few bulkhead flat cars. It has refrained from investing in intermodal cars because of the competitive advantage that has been granted to TTX.

C.K. offers its equipment for lease to railroads and rail shippers under a variety of customized leasing arrangements.

C.K. has followed the evolution of the railroad equipment industry since 1980 and has observed the process of deregulation that should have lead to a fair and competitive market for its products and services. The Staggers Act, car hire depreservation and similar efforts by Congress and the Surface Transportation Board (and its predecessor, the

Interstate Commerce Commission) were intended to introduce market forces into the rail transportation industry. However, TTX antitrust immunity that permits it to set rates and the threat of expanding its pooling authority to equipment types other than intermodal and auto rack cars are contrary to that intent. These anticompetitive factors are amplified as the large Class I railroads, which control TTX, have become fewer in numbers and larger in size, enabling them to control and dictate equipment supply directly or indirectly through rate structures, rail industry regulations (e.g. OT-5) and their control of TTX.

As noted above, C.K. has determined that it could not justify investments in the car types for which TTX enjoys the competitive advantages of pooling authority and antitrust immunity in pricing. Extending and expanding those advantages of TTX will further deter C.K. and others similarly situated from making investments in the North American railcar leasing industry.

VERIFICATION BY C.K.'S DIRECTOR OF SALES

The facts alleged in C.K.'s Comments are verified by Mr. Richard E. Meyers, its Director of Sales. Mr. Meyers' verification is attached to these Comments. Mr. Meyers is uniquely qualified to testify. Mr. Meyers has spent the last seventeen years working in the railcar leasing industry. Mr. Meyers began his career working for eight years for Evans Railcar Corporation, a manufacturer and lessor of railroad freight cars. Mr. Meyers then spent six years employed by Emons Transportation, an owner / operator of several shortline railroads, and he personally directed the leasing operations of their 4000+ railcar fleet. After leaving Emons, Mr. Meyers worked for CIT Rail Equipment Finance, Interail Incorporated, and First Union Rail, and has been employed by C.K. for the last six years. During his entire career, he has been personally involved with the leasing

activities of all of these rail equipment lessors. He has experience in per diem, full service, net operating and finance leasing of all types of railroad rolling stock.

COMMENTS

STATEMENT OF C.K.'S POSITION

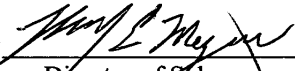
- (1) We oppose as unwarranted TTX's request that the term of pooling authority for flatcars be expanded from 10 to 15 years;
- (2) We oppose as unjustified TTX's request that the Board permit it to make changes in its car contract and policies that are within the scope of the approved agreement without seeking Board approval;
- (3) We disagree with TTX's argument that the prohibition against assignment and allocation of TTX cars is no longer justified;
- (4) We oppose expanding TTX's pooling authority to equipment types other than intermodal and auto-rack flatcars; and
- (5) We oppose TTX anti-trust immunity with respect to setting rates for equipment use.

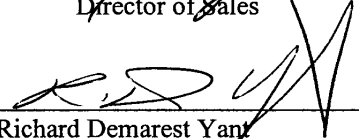
We have reviewed the comments of First Union Rail Corporation and concur with its arguments in support of these positions.

Respectfully submitted,

I, Richard E. Meyers, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file these Comments. Executed on April 9, 2004.

C.K. Industries, Inc.
1348 GREENLAND TRACE
P.O. Box 0087
Deland, FL 32721-0087
Commentor

By: 
Director of Sales


Richard Demarest Yant
Krasnow Saunders Cornblath, LLP
500 N. Dearborn, 2nd Floor
Chicago, IL 60610
(312) 755-5700
Attorney for Commentor

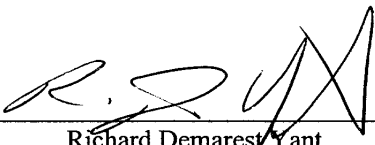
DUE DATE: April 12, 2004

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2004, I served the foregoing document, Comments of
C.K. Industries, Inc., by UPS overnight mail (Monday delivery) on the following:

David L. Meyer
Michael L. Rosenthal
Ronald J. Baumgarten, Jr.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004-2401

Patrick B. Loftus
General Counsel & Corporation Secretary
TTX Company
101 North Wacker Drive
Chicago, IL 60606


Richard Demarest Yant