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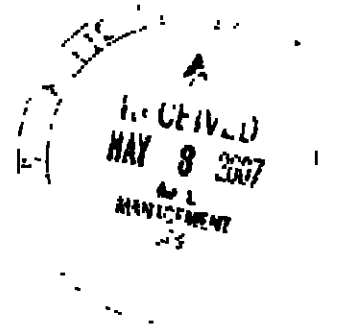
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ENTITLED
Office of Proceedings

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Part of
Public Record

7 May 2007
by express



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Hon. Vernon Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20024

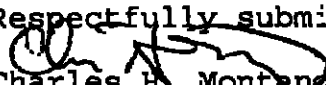
Re: PYCO Industries v. SAW, F.D. 34870

Dear Mr. Williams:

Enclosed please find a motion to extend the protective order in F.D. 34890 to cover F.D. 34870, for filing on behalf of complainant PYCO Industries, Inc. Because the Board's order served May 4, 2007, calls for completion of discovery by June 4, 2006, we are hopeful that this motion may be acted upon promptly to ensure no delays in receipt of discovery responses or in connection with subsequent briefing.

Thank you for your assistance in this matter.

Respectfully submitted,


Charles H. Montange
for PYCO Industries, Inc.

Encls.

cc. Mr. McFarland (counsel for SAW) (w/encl.)

BEFORE THE SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC.,)
)
v.) F.D. 34870
)
SOUTH PLAINS SWITCHING, LTD.)

MOTION FOR PROTECTIVE ORDER

By decision served May 4, 2007, the Board established a procedural schedule in this Complaint proceeding.¹ The schedule calls for completion of discovery by June 4, 2007. It is possible that one or both parties may take the position that certain discovery information is confidential and should be covered by a protective order.² In order to avoid delays arising from failing to make discovery due to the absence of a

¹ The Board's order notes that the parties apparently failed to comply with the requirement that opposing counsel confer and submit a report concerning a proposed procedural schedule. According to the records of PYCO's counsel, on or before May 18, 2006, SAW's counsel and PYCO's conferred. In accordance with that conference, SAW's counsel prepared a letter to the Secretary, dated May 18, 2006, suggesting that discovery and a procedural schedule be deferred pending resolution of SAW's motion to dismiss. PYCO's counsel signed off on the letter by fax transmission on May 18, and assumed that SAW's counsel provided the letter to the Board. The Board may have registered it as correspondence rather than a pleading, for the letter does not appear on the website under filings.

² SAW has already asserted that its contract with BNSF for purchase of the lines is confidential, asking for PYCO to be admonished for attaching a copy of that contract to its Complaint. See SAW Answer dated May 8, 2006, F.D. 34870, at p. 1 n.1. But PYCO understands that the contract is a copy of a publicly available document in the litigation between SAW and BNSF in Texas state court in Lubbock. Although publicly available documents are not proper subjects for confidential treatment, it is possible that one or both of the parties may be called upon to produce, or wish to employ, confidential information for purposes of this proceeding.

protective order, PYCO Industries, Inc. (PYCO) hereby moves this Board to issue an order providing that the protective order in PYCO Industries, Inc. -- Feeder Line Application -- South Plains Switching, Ltd., F.D. 34890, served July 6, 2006, shall also apply in this Complaint proceeding.

In the alternative, the protective order in F.D. 34890 already applies to "related proceedings." This Complaint proceeding involves the same parties, and deals with some of the same issues, as the feeder line proceeding to which the protective order in F.D. 34890 is already applicable. This Complaint proceeding accordingly may be viewed as a "related proceeding" to which the protective order is already applicable. However, to avoid any doubt, it is appropriate that the Board issue an order clarifying that this is the case. This Board took similar action in clarifying the applicability of the F.D. 34890 protective order to proceedings in F.D. 34922. See Decision served in PYCO Industries, Inc., --Feeder Line Application -- South Plains Switching, Ltd., F.D. 34890 and Keokuk Junction Railway Co. -- Feeder Line Application -- South Plains Switching, Ltd., F.D. 34922, served Oct. 5, 2006.

For the reasons stated above, PYCO requests this Board to issue an order indicating (a) either that the protective order served July 6, 2006, in F.D. 34890, also applies to this proceeding, or, alternatively, (b) that this proceeding is a "related proceeding" to which the protective order already applies.

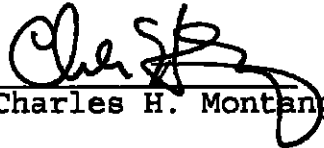
Respectfully submitted,


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for PYCO Industries, Inc.

Of counsel:
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Certificate of Service

I hereby certify that copies of the forgoing motion were served by express (next day) delivery this 7th day of May, 2007, upon Thomas McFarland, Esq., 208 South LaSalle St., Suite 1890, Chicago, IL 60604-1112.


Charles H. Montange