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THOMAS F. MCFARLAND

June 19, 2007

By e-filing

Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Re: STB Finance Docket No. 34870, *PYCO Industries, Inc. v. South Plains Switching, Ltd. Co.*

Dear Mr. Williams:

It is stated as follows in the Board's decision in the above proceeding served June 6, 2007, at 2:

... The Board has no record of the parties' May 18, 2006 joint report regarding discovery and procedural scheduling ...

The Board also stated in the June 6 decision at 1 that the Board adopted a procedural schedule now "because the requirements of 49 C.F.R. 1111.10(a) were not satisfied" (i.e., a joint report was not filed).

Attached to this communication is a copy of the joint report under 49 C.F.R. 1111.10(a) signed by the parties, and dated May 18, 2006.

Also attached to this communication is a copy of an acknowledgment by the Board of receipt of that joint report on May 18, 2006.

The upshot of the foregoing is that contrary to the Board's statements in the decision served June 6, a joint report in this proceeding was timely filed with the Board. As is evident in the joint report, the parties agreed that discovery and procedural scheduling of the Complaint should be deferred until the Board disposes of the Motion to Dismiss filed by South Plains Switching, Ltd. Co. (SAW).

You will notice that the joint report is filed under Finance Docket No. 34838. The Board's file will reflect that the Complaint by PYCO Industries, Inc. was also filed under that docket, i.e., Finance Docket No. 34838. Thereafter, the docket number for the Complaint was

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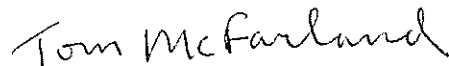
Vernon A. Williams
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changed by the Board to Finance Docket No. 34870. I do not know why the Board made that change. In any event, the Board's change of docket number in this proceeding cannot be used as a basis for a contention that the parties did not timely file a joint report under 49 C.F.R. § 1111.10(a).

As a result of this Board error or oversight, SAW is being required to answer a Complaint and conduct and respond to discovery in regard to the Complaint without there having been a disposition of the Motion to Dismiss the Complaint, as agreed. That is unjustified. As proven herein, the parties had agreed otherwise in a joint report that was timely filed at the Board. PYCO did not request the Board to issue a procedural schedule in the matter. That came from the Board unilaterally.

Once again, SAW respectfully requests that evidentiary proceedings in regard to the Complaint be held in abeyance pending disposition of the Motion to Dismiss, as the parties agreed in the joint report. SAW's expenditure of funds and effort on such evidentiary proceedings is not justified in view of the agreement of the parties and the dispositive nature of the Motion to Dismiss. SAW will continue to advance this position in its current Answer to the Complaint, and at every other opportunity.

Very truly yours,



Thomas F. McFarland
*Attorney for South Plains
Switching, Ltd. Co.*

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cc: Charles Montange, Esq., *by e-mail*
Mrs. Delilah Wisener, *by e-mail*
Mr. Larry Wisener, *by e-mail*
Mr. Dennis Olmstead, *by e-mail*

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THOMAS F. MCFARLAND

May 18, 2006

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

Re: Finance Docket No. 34838, *PYCO Industries, Inc. v. South Plains Switching, Ltd. Co.*

Dear Mr. Williams:

Pursuant to 49 C.F.R. §111.10(a), counsel for Complainant PYCO Industries, Inc. (PYCO) and Defendant SOUTH PLAINS SWITCHING, LTD. CO. (SAW) spoke by telephone on May 17 about discovery and procedural matters in the above proceeding.

Counsel for PYCO and SAW have agreed that discovery and procedural scheduling should be deferred until PYCO files its response to SAW's Motion to Dismiss the Complaint and the Board disposes of that Motion.

Accordingly, the Board is respectfully requested to defer discovery and procedural scheduling in this matter pending disposition of SAW's Motion to Dismiss the Complaint.

Very truly yours,

Thomas F. McFarland

Attorney for South Plains
Switching, Ltd. Co.

[Signature]

Attorney for PYCO Industries, Inc.



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Subject: Acknowledgement of formal filing

From: SAdvisory@stb.dot.gov

To: klenihan@ameritech.net

Date: Thu, 18 May 2006 16:22:05 -0400

STB acknowledges that you have submitted a formal filing regarding
docket
number FD-34838--

#1164

Ltr to V William 5/18/06