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18 July 2007

Hon. Vernon Williams
Secretary
Surface Transportation Board
395 E Street SW
Washington, D.C. 20024 (Fed X)

219797

Re: PYCO Industries v. South Plains Switching,
Ltd., Finance Docket 34870

Separate Report per § 1111.10(a)

Dear Mr. Williams:

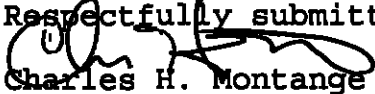
Per 49 C.F.R. § 1111.10(a), counsel for PYCO Industries (PYCO) and South Plains Switching, Ltd. (SAW) conferred in regard to discovery and procedural matters on 17 July. Because the parties were not able to agree on a procedural schedule, counsel agreed to submit separate reports in response to the regulation with respect to a recommended schedule to govern the Amended Complaint.

PYCO Industries supports the schedule already established by this Board as amended and most recently set forth in this Board's order in F.D. 34870, served July 3, 2007.

SAW seeks to defer evidentiary proceedings pending resolution of its Motion to Dismiss. PYCO opposes such deferral for, among other things, the following reasons: (1) PYCO and so far as PYCO is aware SAW currently can comply with the schedule the Board has issued. (2) SAW and its alter ego Choo-Choo Properties continue actively to pursue relief against PYCO in Texas state court¹ concerning matters that are within the

¹ For example, in the past week SAW has tendered extensive document discovery in Texas state court against PYCO evidently relating to matters pending in Finance Docket 34870, and Choo-Choo refuses to allow dissolution of the state court injunction barring PYCO's access to its cottonseed stockpile. SAW/Choo-Choo instead seeks a letter to this agency from the Texas state court asking for further guidance on the application of this Board's decision served August 3, 2006 in F.D. 34870 and related

exclusive jurisdiction of this agency.² These matters are more properly litigated in this Complaint proceeding.³ SAW's arguments about "administrative economy" and so forth suggest that the complaint proceeding move forward and the state court proceedings be held in abeyance rather than the other way around as SAW would have it. (3) PYCO desires expeditious and permanent relief against SAW for inadequate service, retaliation, and discrimination,⁴ and the only means currently available to that end is through STB proceedings, including this Complaint proceeding. (4) This Complaint proceeding may present issues connected to issues pending in the feeder line proceeding (F.D. 34890), and further delay in this proceeding may result in further delay in the feeder line proceeding. PYCO notes that SAW, complaining of delays in the feeder line proceeding, already has sought on that basis to reopen PYCO's alternative service proceeding (F.D. 34889) to terminate the alternative service to PYCO authorized by the Board and upon which PYCO is dependent. (5) This Board has considered and rejected SAW's request for deferral, and SAW shows no grounds for reconsideration.

Respectfully submitted,

Charles H. Montange
for PYCO Industries, Inc.

cc. Thomas McFarland, Esq. (for SAW)

proceedings.

² SAW's hostile actions against PYCO include calls by Mr. Wisener to Texas highway officials to complain about PYCO's efforts to move its cottonseed stockpile on city streets due to SAW/Choo-Choo/Wisener's obstruction of PYCO's access across the "wye," notwithstanding this agency's order of August 3, 2006.

³ PYCO believes some of the matters SAW or Choo-Choo seek to litigate in Texas state court have been fully resolved against SAW and Choo-Choo by orders of this Board in other proceedings as well.

⁴ In Texas state court, SAW continues to seek to collect unlawful, retaliatory and discriminatory surcharges and fees against PYCO, and SAW's alter ego Choo-Choo continues to block PYCO's access to its cottonseed stockpile.