NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

Volume XXXVIII, Number 3, February 21, 1985

Arbitration Case Number 1612

Plaintiff: Indiana Grain, division of
Indiana Farm Bureau Cooperative Association, Indianapolis, Ind.

Defendant: Central Soya Co., Inc., Fort Wayne, Ind.

Statement of the Case

The facts underlying this arbitration case are substantially undisputed:

The plaintiff sold to the defendant an aggregate of 100,000 bushels of soybeans delivered to Chattanooga, Tenn., pursuant to two delayed price contracts dated Oct. 25, 1982, and Nov. 9, 1982, respectively. Each of the contracts provided that the "soybeans are to be priced between now and close of the Chicago Board of Trade futures market on May 30, 1983, at Central Soya's current 'to arrive' bid, less charge of 10 cents per bushel, plus one and one-half cents per bushel per month, commencing Dec. 1, 1982."

On May 6, 1983, flood conditions on the Tennessee River prevented the defendant from receiving barge shipments of soybeans necessary to satisfy its Chattanooga plant's crushing requirements. The defendant sought to cover its crushing requirements by purchasing soybeans from the plaintiff for immediate shipment by rail.

After rejection of several of the plaintiff's offers to sell soybeans at SN +27 and SN +28, including at least one offer that conditioned the immediate cash sale at SN +28 on pricing the delayed price contracts at the same price, the plaintiff and defendant reached an agreement for sales of 110,000 bushels at SN +28. Immediately after concluding the 110,000 bushel sale, the plaintiff attempted to price the delayed price contracts at SN +28. The defendant refused and offered SN +5 based upon its truck delivery bid.

The defendant admitted that it pays a premium above its truck delivery bid for rail and barge shipments. The plaintiff and defendant agreed to arbitrate the plaintiff's claim of $23,000, representing the difference between the price of SN +28 per bushel, which the plaintiff claimed represented the defendant's current "to arrive" price at the time the contract was priced and the price of SN +5, which the defendant paid.

The Decision

The defendant argued that reference to its current "to arrive" bid in the delayed pricing contracts was not intended to include its bid for immediate shipment under abnormal market conditions. Delayed pricing contracts (and for that matter any contract) speak to the relevant market whatever the conditions affecting it. The defendant's hedge against fluctuating general market conditions was that the contract referenced a bid determined by the defendant in view of the defendant's specific demand and the available supply in the defendant's specific market. Clearly, the contractual reference to the defendant's current "to arrive" bid did not exclude a bid for rail grain that would be shipped immediately for arrival several days later. To decide otherwise would give effect to different and other-than-current-market conditions at the time that the plaintiff priced its delayed pricing contracts.

The Award

The arbitration panel found in favor of the plaintiff in the amount of $23,000 (the difference between SN +5 and SN +28) and interest at 11 and one-half percent, which is the averaged prime rate during the applicable period. Interest is to be paid from May 9, 1983, until the date of payment.

Submitted with the consent and approval of the arbitration panel, whose names are listed below.

Edmund P. Karam
Continental Grain Co.
New York, N.Y.

Robert H. Peyton
Peavey Grain Companies
Minneapolis, Minn.

Garry A. Pistoria
Harvest States Cooperatives
St. Paul, Minn.