

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42099¹

STB Docket No. 42100

STB Docket No. 42101

E.I. DUPONT DE NEMOURS AND COMPANY

v.

CSX TRANSPORTATION, INC.

Decided: January 15, 2008

On August 21, 2007, E.I. du Pont de Nemours and Company (DuPont) filed three separate complaints challenging the reasonableness of rates charged by CSX Transportation, Inc. (CSXT) for the movement of non-exempt commodities, including hazardous materials. DuPont's complaints stated that it intended to pursue relief under the simplified procedures in Rate Guidelines—Non-Coal Proceedings, 1 S.T.B. 1004 (1996).

By a decision served on September 5, 2007, the Board clarified and modified its simplified procedures for rate reasonableness complaints. Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1) (STB served Sept. 5, 2007) (Simplified Standards). In a decision in these complaint proceedings, served on September 7, 2007, the Board ordered DuPont to supplement its complaints to conform to the Board's decision in Simplified Standards. DuPont filed its amended complaints on October 30, 2007.

DuPont has chosen to seek relief under the Three Benchmark methodology set forth in Simplified Standards in all three proceedings. Pursuant to the procedural schedule the Board adopted for disputes brought under this methodology, opening evidence from both the complainant (DuPont) and defendant (CSXT) would be due 90 days after the amended complaints were filed, which would be January 28, 2008.

On January 10, 2008, DuPont filed a motion to extend the procedural schedule in these cases by two weeks. DuPont states that it was unable to complete its document production to CSXT until recently, due to difficulties coordinating document production over multiple locations during the holiday period. Accordingly, DuPont requests additional time to permit the

¹ These proceedings are not consolidated. A single decision is being issued for administrative convenience.

parties an opportunity to analyze the materials produced in discovery. DuPont states that it has been authorized by CSXT to state that CSXT consents to the extension.

Given that there was essentially a one-week delay in the completion of discovery over the New Year's holiday, a one-week extension of the procedural schedule would be appropriate and will be granted. The parties are reminded, however, of the importance of adhering to the procedural schedule and should not expect extensions to be granted in the future absent demonstrated good cause. See Simplified Standards, slip op. at 22.

It is ordered:

1. DuPont's motion to extend the procedural schedule is granted in part. The parties' opening evidence is due on February 4, 2008. The remaining deadlines are extended by one week.
2. This decision is effective on its date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan
Acting Secretary