

BEFORE THE
SURFACE TRANSPORTATION BOARD

235069

ENTERED

Office of Proceedings
November 12, 2013
Part of the Public Record

TOTAL PETROCHEMICALS &
REFINING USA, INC.

Complainant,

v.

CSX TRANSPORTATION, INC.

Defendant.

Docket No. NOR 42121

MOTION TO MODIFY PROCEDURAL SCHEDULE

 GRANTED Office of Proceedings	DECISION ID NO.: <u>43465</u>
	DECIDED DATE: <u>11/22/13</u>
	SERVICE DATE: <u>11/25/13</u>
	APPROVED: <u>Rachael Campbell</u> Director
	☐

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SURFACE TRANSPORTATION BOARD**

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Pursuant to 49 CFR § 1117.1, complainant Total Petrochemicals & Refining USA, Inc. (“TPI”) hereby files this Motion to Modify Procedural Schedule (“Motion”). In this Motion, TPI requests that the Surface Transportation Board (“Board”) modify the procedural schedule in the above-captioned proceeding. TPI has consulted with defendant CSX Transportation, Inc. (“CSXT”) regarding this Motion, and counsel for CSXT has authorized TPI’s counsel to state that CSXT does not oppose the requested modification, and that CSXT will not be filing a reply in response to this Motion.

The current procedural schedule was issued by the Board in a decision served on September 26, 2013 (“Decision”) after TPI and CSXT had been unable to agree on a mutually acceptable procedural schedule. The schedule ordered by the Board mirrored the “default” procedural schedule previously established by the Board for Stand-Alone Cost (“SAC”) cases. See Decision at 4. The default schedule was created in a SAC case where the issue traffic was

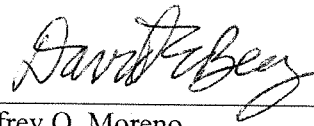
coal headed to a single issue destination. In comparison, the SAC phase of TPI's case will involve dozens of different origin-destination pairs and several different commodities. In the aftermath of the Decision, counsel for TPI and CSXT have discussed the issue of the appropriate time needed for both parties during the SAC phase, and CSXT has agreed not to oppose the moderate extension of time proposed herein. As further described below, the total extension sought would add 120 days to the existing procedural schedule. The extension should be granted in order to enable both parties to deal with the complex issues inherent in designing a Stand-Alone Railroad for the SAC phase of this case. No party will be prejudiced by the extension because the only other party in this case, CSXT, has agreed not to oppose the new schedule proposed herein.

The schedule proposed in this Motion involves thirty (30) extra days for TPI's Opening Evidence, sixty (60) extra days for CSXT's Reply Evidence, and thirty (30) extra days for TPI's Rebuttal Evidence. Compared to the current schedule, the new schedule is as follows:

event	date from Sept. 26 Decision	proposed new date
TPI Opening	January 15, 2014	February 14, 2014
CSXT Reply	April 15, 2014	July 15, 2014
TPI Rebuttal	May 30, 2014	September 29, 2014
Final Briefs	June 19, 2014	October 20, 2014

For the foregoing reasons, the Board should modify the procedural schedule as described above.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "David E. Benz".

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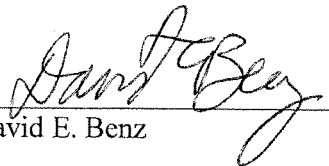
November 12, 2013

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of November 2013, I served a copy of the foregoing upon counsel for defendant CSXT via electronic mail and U.S. first-class mail, postage prepaid, at the address below:

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Counsel for CSX Transportation, Inc.



David E. Benz