

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42113

ARIZONA ELECTRIC POWER COOPERATIVE, INC.

v.

BNSF RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

Decided: June 14, 2010

This decision modifies the procedural schedule in this proceeding.

The Board established a procedural schedule for this proceeding in a decision served on February 3, 2009. By a decision served on March 16, 2009, the Board modified that schedule at the request of all parties as it pertained to a staff-supervised discovery conference. By a decision served on June 1, 2009, the Board modified and extended the procedural schedule at the request of Arizona Electric Power Cooperative, Inc. (AEPCO) with the concurrence of both defendants, BNSF Railway Company (BNSF) and Union Pacific Railroad Company (UP) (collectively, defendants). By decisions served November 5, 2009, and January 8, 2010, the Board granted AEPCO's second and third unopposed motions to extend the procedural schedule.

On June 9, 2010, AEPCO filed its fourth unopposed motion to extend the procedural schedule. AEPCO states that the defendants, in their reply, challenge the size of AEPCO's traffic group in its proposed stand-alone railroad (SARR), and present evidence on 3 different versions of the SARR. AEPCO claims that evaluating this evidence and modifying its SARR requires more time than originally anticipated. Furthermore, AEPCO argues that the defendants' filing of an errata to their joint reply evidence less than 2 weeks before the current deadline for the filing of rebuttal evidence necessitates an extension of the procedural schedule. AEPCO states that BNSF and UP do not object to a 10-day extension of the due date for rebuttal evidence, but that the defendants request an additional week to prepare their closing brief due to the intervening Independence Day holiday. Therefore, AEPCO requests the following revised procedural schedule, which extends the due date for rebuttal evidence by 10 days, and the due date for closing briefs by 17 days:

July 1, 2010
July 29, 2010

Complainant's rebuttal evidence
Closing briefs

AEPCO's unopposed motion will be granted. The Board will modify the procedural schedule as described above.

It is ordered:

1. AEPCO's unopposed motion to modify the procedural schedule is granted.
2. The procedural schedule in this proceeding is revised as described above.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.