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SEC

SERVICE DATE – LATE RELEASE JULY 13, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42110

SEMINOLE ELECTRIC COOPERATIVE, INC.

v.

CSX TRANSPORTATION, INC.

Decided: July 13, 2009

This decision grants a motion to revise the procedural schedule filed by Seminole Electric Cooperative, Inc. (SECI).

On October 3, 2008, SECI filed a complaint challenging the reasonableness of the rates established by CSX Transportation, Inc. (CSXT) for transportation of coal from various origins to SECI's Seminole Generating Station, near Palatka, FL, effective January 1, 2009. SECI alleges that CSXT possesses market dominance over this traffic and requests that reasonable rates be prescribed pursuant to the Board's stand-alone cost (SAC) test.

The Board established a procedural schedule in this proceeding in a decision served on December 11, 2008. In that decision the Board noted that it would extend the default procedural schedule in order to allow more time for the parties to prepare their cases. In a decision served on May 6, 2009, the Board granted SECI's motion to revise that extended procedural schedule to provide yet additional time.

By a motion filed on June 30, 2009, SECI requests that the Board revise the May 6 procedural schedule with respect to the filing of evidence and briefs in this proceeding. SECI requests an additional extension of the deadline for filing its opening evidence from July 31, 2009, to August 31, 2009. SECI also requests corresponding extensions of the deadlines for CSXT's reply evidence, from November 18, 2009, to December 18, 2009; SECI's rebuttal evidence, from January 8, 2010, to February 8, 2010; and both parties' closing briefs, from January 28, 2010, to March 1, 2010. SECI states that the discovery process has taken longer than anticipated, citing delayed responses from third-parties and additional time needed for SECI to complete its analysis of the data necessary to compile its opening evidence.

On July 1, 2009, CSXT filed a reply to SECI's motion. CSXT states that it neither supports nor opposes SECI's request to revise the current procedural schedule, but expresses concern that it might need additional time to reply to the opening evidence that SECI submits. CSXT states that it might need the additional time based on representations made by SECI concerning the complexity of the opening evidence.

Because SECI's request is unopposed, the motion to revise the procedural schedule in this case will be granted. However, to address the concerns raised by CSXT in its reply, the Board will revise SECI's requested procedural schedule by adding 30 more days for CSXT to file its reply evidence. The Board will not add any time to the schedule for rebuttal evidence because the last procedural schedule already had extra time built into that phase to avoid submitting evidence during the holidays.

It is ordered:

1. SECI's motion to revise the procedural schedule, as last established in a decision served on May 6, 2009, is granted, as discussed above.

2. The procedural schedule in this proceeding is revised as follows:

August 31, 2009	Complainant's opening evidence due.
January 18, 2010	Defendant's reply evidence due.
March 11, 2010	Complainant's rebuttal evidence due.
April 1, 2010	Closing briefs due.

3. This decision is effective on its date of service.

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

Anne K. Quinlan
Acting Secretary