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ALJ

SERVICE DATE – APRIL 27, 2015

SURFACE TRANSPORTATION BOARD

ORDER OF PRESIDING ADMINISTRATIVE LAW JUDGE SCHEDULING DISCOVERY
CONFERENCE

Docket No. FD 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY—TERMINAL TRACKAGE RIGHTS—KANSAS CITY
SOUTHERN RAILWAY COMPANY AND UNION PACIFIC RAILROAD COMPANY

Decided: April 24, 2015

BNSF Railway Company (BNSF) filed an application under 49 U.S.C. § 11102(a) for terminal trackage rights over the Rosebluff Industrial Lead (the RIL) track that is jointly owned by Kansas City Southern Railway Company (KCS) and Union Pacific Railroad Company (UP). KCS and UP filed separate replies in opposition to BNSF's application for terminal trackage rights. CITGO Petroleum Corporation (CITGO) filed a petition to intervene in support of BNSF's petition.¹

Discovery disputes have arisen among the parties. On January 15, 2015, KCS filed a motion to compel responses to KCS's first set of discovery requests directed to BNSF. BNSF replied to the motion on February 4, 2015. KCS filed a second motion on February 6, 2015, to compel responses to KCS's second set of discovery requests directed to BNSF. On February 9, 2015, KCS filed a motion to compel responses to KCS's first set of discovery requests directed to CITGO. BNSF replied to KCS's motion to compel responses to KCS's second set of discovery requests on February 26, 2015. On March 2, 2015, CITGO filed its reply to KCS's motion to compel.

By a decision served on April 8, 2015, the Board assigned and authorized Administrative Law Judge Steven A. Glazer of the Federal Energy Regulatory Commission (FERC) to entertain and rule upon discovery matters and to resolve all disputes concerning discovery in this proceeding. Copies of all of the parties' filings and documents concerning the discovery disputes have been received by Judge Glazer.

Notwithstanding the scheduling of the discovery conference ordered below, the parties are strongly encouraged to make intensive, good faith efforts to resolve outstanding discovery disputes without the need for judicial intervention, both prior to the conference and thereafter. Any questions pertaining to this discovery proceeding should be direct to Judge Glazer's law clerk, Andrew Satten, who may be contacted at (202) 502-6703 or andrew.satten@ferc.gov.

¹ The Board granted CITGO's petition to intervene in a decision served on April 14, 2014.

It is ordered:

1. A discovery conference on the KCS motions to compel is scheduled for May 4, 2015, at 10 a.m. in a hearing room to be designated at the Federal Energy Regulatory Commission. This conference will be held on the record. All parties to the discovery disputes are directed to attend.

By the Board, Steven A. Glazer, Administrative Law Judge.