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BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings

AUG 9 - 2011

Part of
Public Record

E.I. DUPONT DE NEMOURS & COMPANY)
)
 Complainant)
 v.)
 NORFOLK SOUTHERN RAILWAY COMPANY)
)
 Defendant)

Docket No. NOR 42125

MOTION TO MODIFY PROCEDURAL SCHEDULE

E.I. du Pont de Nemours and Company ("DuPont"), hereby submits this motion to revise the procedural schedule in the above-captioned proceeding. The current procedural schedule was approved by the Surface Transportation Board ("Board" or "STB") in a decision served February 24, 2011. DuPont now requests that the Board adopt the revised procedural schedule set forth in Exhibit A to this motion. Counsel for defendant, Norfolk Southern Railway Company ("NS"), has authorized counsel for DuPont to represent that NS does not oppose this motion.

The revised procedural schedule provides for additional time to complete discovery in light of issues surrounding the discovery of traffic data that is essential to DuPont's stand-alone-cost case. Because NS believed certain traffic data was sensitive security information ("SSI"), it withheld traffic data pending assurances from the Federal Railroad Administration ("FRA") that the data was not SSI or that federal regulations did not prohibit production of the data. On July 27, 2011, after discovery had closed under the procedural schedule, the Federal Railroad Administration ("FRA") issued an order and memorandum classifying certain traffic data as SSI and authorizing the release of such data in STB proceedings. Subsequently, NS has produced the

SSI material and DuPont has begun its review of the data. However, an adjustment to the procedural schedule is necessary to compensate for the delayed production of the traffic data, to allow DuPont sufficient time to review and understand the data, and to permit DuPont adequate time to develop its stand-alone cost evidence.

The modified procedural schedule in Exhibit A adjusts the due dates in the current schedule by approximately three months in order to account for the three month delay in production of the SSI materials. The parties have not requested any other revisions to the procedural schedule in this proceeding.

WHEREFORE, for the foregoing reasons, the DuPont respectfully request that the Board adopt the modified procedural schedule proposed for this case (Docket No. 42125) in Exhibit A to this motion.

Respectfully submitted,



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August 9, 2011

Exhibit A
Proposed Procedural Schedule

<u>Action</u>	<u>Date</u>
Discovery Closes	September 30, 2011
Joint Submission of Operating Characteristics	December 15, 2011
DuPont's Opening Evidence	January 31, 2012
NS's Reply Evidence	May 31, 2012
DuPont's Rebuttal Evidence	September 28, 2012
Closing Briefs	November 2, 2012

CERTIFICATE OF SERVICE

I hereby certify that this 9th day of August 2011, I served a copy of the foregoing via e-mail and first class mail upon:

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