

 GRANTED Office of Proceedings	DECISION ID NO.: <u>42563</u>
	DECIDED DATE: <u>7/30/12</u>
	SERVICE DATE: <u>7/31/12</u>
	APPROVED: <u>Richard Armstrong</u> <i>Acting Director</i>
<input type="checkbox"/>	STB Finance Docket No. 35557

232616

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
July 26, 2012
Part of
Public Record

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**JOINT AND UNOPPOSED MOTION TO ADOPT
REVISED PROCEDURAL SCHEDULE**

In response to the Board's decision served on June 25, 2012, BNSF Railway Company ("BNSF") and the Western Coal Traffic League ("WCTL"), American Public Power Association, Edison Electric Institute, and the National Rural Electric Cooperative Association (collectively "Coal Shippers") file this Joint and Unopposed Motion to Adopt Revised Procedural Schedule. Counsel for BNSF consulted with counsel for all other parties of record who have indicated that they concur in the proposed schedule.

1. On December 16, 2011, the Director of the Office of Proceedings granted WCTL's and BNSF's Motion for Adoption of a Procedural Schedule. Under that schedule, Opening, Reply, and Rebuttal Evidence and Argument from Parties of Record were due on specified dates beginning on March 20, 2012 (opening evidence) and concluding on May 14, 2012 (rebuttal evidence).

2. On February 27, 2012, the Director of the Office of Proceedings decided a discovery dispute between BNSF and the Member Organizations of WCTL, granting BNSF the right to obtain discovery from WCTL's members.¹ The Director held the procedural schedule in

¹ *Reasonableness of BNSF Ry. Company Coal Dust Mitigation Tariff Provisions*, STB Fin. Docket No. 35557 (STB served Feb. 27, 2012) (hereafter "*Director's February 27, 2012 Decision*").

abeyance to allow time for BNSF to pursue the third-party discovery.

3. On March 1, 2012, the Member Organizations appealed the Director's *February 27, 2012 Decision*.

4. On June 25, 2012, the Board denied the appeal of the Member Organizations of the Director's *February 27, 2012 Decision* and scheduled a technical conference. The Board instructed parties to file a proposed revised procedural schedule after the technical conference or after a request that the technical conference be cancelled.

5. On July 17, 2012, BNSF and the Member Organizations filed a Joint Motion to Cancel the Technical Conference because they had reached a negotiated resolution of BNSF's discovery requests. On the same day, the Director granted the Joint Motion to Cancel the Technical Conference.

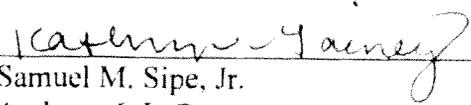
6. BNSF and Coal Shippers have agreed on the revised procedural schedule set out below.

Opening Evidence and Argument due from all Parties of Record:	October 1, 2012
Reply Evidence and Argument due from all Parties of Record:	November 15, 2012
Rebuttal Evidence and Argument due from all Parties of Record:	December 17, 2012

7. The undersigned is authorized to state that all other parties of record have concurred in the proposed schedule.

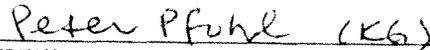
Therefore, BNSF and Coal Shippers jointly request that the Board enter an order granting the motion to adopt the revised procedural schedule.

Respectfully submitted,



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Dated: July 26, 2012

CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2012, I caused a copy of the foregoing to be served by e-mail upon all parties of record in this case as follows:

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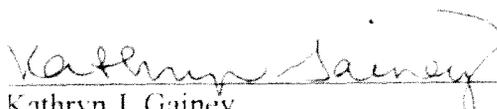
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