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SERVICE DATE – FEBRUARY 8, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42132

CANEXUS CHEMICALS CANADA, L.P.

v.

BNSF RAILWAY COMPANY

Digest:<sup>1</sup> This decision denies BNSF Railway Company's (BNSF) motion in this Three-Benchmark rate case to add only BNSF's 2011 traffic tape data (through the third quarter) to the available data the parties may use to introduce comparison group evidence.

Decided: February 8, 2012

By a complaint filed on November 14, 2011, Canexus Chemicals Canada, L.P. (Canexus) challenges the reasonableness of rates charged by BNSF Railway Company (BNSF) for the transportation of chlorine from: (1) North Vancouver, B.C., to Glendale, Ariz.; and (2) North Vancouver, B.C., to Albuquerque, N.M. Canexus seeks relief pursuant to the simplified procedures set forth in Simplified Standards for Rail Rate Cases, EP 646 (Sub-No.1) (STB served Sept. 5, 2007).<sup>2</sup> Canexus has elected to utilize the Three-Benchmark method, under which the total available rate relief is limited to \$1 million over a 5-year period. BNSF filed its answer to the complaint on December 5, 2011.

On December 14, 2011, BNSF filed the subject motion, in which it seeks permission to add only BNSF's 2011 traffic tape data (through the third quarter) to the available data for the parties to introduce comparison group evidence regarding toxic-by-inhalation movements. BNSF filed a request for expedited consideration of its motion on December 16, 2011. Canexus filed in opposition to BNSF's request for expedited consideration on December 19, 2011, and then filed its reply in opposition to BNSF's motion on January 3, 2012.

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<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

<sup>2</sup> Aff'd sub nom. CSX Transp., Inc. v. STB, 568 F.3d 236 (D.C. Cir. 2009), vacated in part on reh'g, CSX Transp., Inc. v. STB, 584 F.3d 1076 (D.C. Cir. 2009).

BNSF's motion will be denied. A discussion of the merits of BNSF's motion will be included in a subsequent decision on the merits.

It is ordered:

1. BNSF's motion is denied.
2. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.