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SERVICE DATE – MARCH 5, 2010

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42110

SEMINOLE ELECTRIC COOPERATIVE, INC.

v.

CSX TRANSPORTATION, INC.

Decided: March 4, 2010

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 decisions served on May 6, 2009, and July 13, 2009, the Board granted motions from SECI to extend the procedural schedule.

By a motion filed on February 19, 2010, SECI requests that the Board revise the July 13 procedural schedule with respect to the deadlines for rebuttal evidence and closing briefs. SECI requests an extension of the deadline for its rebuttal evidence from March 11, 2010, to April 15, 2010, and a corresponding extension of the deadline for closing briefs, from April 1, 2010, to May 5, 2010. SECI states that the additional time is necessary because: (1) recent severe winter weather in the Washington, DC area interrupted preparation of SECI's rebuttal; (2) SECI initiated numerous follow-up communications related to CSXT's reply evidence, including requests for workpapers and other supporting materials; and (3) CSXT's reply evidence included modifications to the traffic group and operating plan selected by SECI in its opening evidence, and, as a result, SECI has determined that it should modify several of its Rail Traffic Controller (RTC) model inputs, which could affect its Discounted Cash Flow (DCF) model.

On February 22, 2010, CSXT filed a reply to SECI's motion. CSXT states that it supports only a limited extension of the deadline for rebuttal evidence, to April 1, 2010. CSXT argues that the only unusual event in support of SECI's extension request is the severe winter weather. CSXT argues that the delay caused by the weather was no longer than a week, and

therefore a 2 or 3 week extension is more than sufficient. CSXT also argues that the follow-up requests from SECI are common in SAC cases and that its responses to SECI's clarification inquiries were prompt. With regard to SECI's RTC model modifications, CSXT argues that reply evidence in SAC cases routinely includes modifications to the traffic group data presented in opening evidence, and that the need to analyze these modifications before the filing of rebuttal evidence does not create the good cause necessary to extend the remaining deadlines under the current procedural schedule. Finally, CSXT argues that a grant of the full extension request would be unduly burdensome because the new deadline for closing briefs would conflict with a procedural schedule in another Board proceeding, in which several of CSXT's witnesses and consultants are involved.

Good cause exists to revise the procedural schedule in this proceeding, and therefore SECI's motion will be granted. While CSXT is correct in noting that the original procedural schedule adopted on December 11, 2008, had extra time built into the deadline for the submission of rebuttal evidence, SECI has demonstrated a need for additional time to prepare its rebuttal evidence. Not only did the Washington, DC area experience disruptive winter weather during the month of February, but SECI has also shown that it will need additional time to address CSXT's modifications to the traffic group and operating plan for SECI's stand-alone railroad. The Board will extend the remaining deadlines of the procedural schedule in this proceeding by approximately 5 weeks.

It is ordered:

1. SECI's motion to revise the procedural schedule, as last established in a decision served on July 13, 2009, is granted.
2. The procedural schedule in this proceeding is revised as follows:

April 15, 2010	Complainant's rebuttal evidence due.
May 5, 2010	Closing briefs due.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.