

39649
SEC

SERVICE DATE – JANUARY 13, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42112

E.I. DU PONT DE NEMOURS & COMPANY

v.

CSX TRANSPORTATION, INC.

Decided: January 13, 2009

E.I. du Pont de Nemours & Company (DuPont) has challenged the reasonableness of rates established by CSX Transportation, Inc. (CSXT) for the transportation of 38 commodities between 99 origin and destination pairs. DuPont alleges that CSXT possesses market dominance over the traffic and requests that the maximum reasonable rates be prescribed along with other relief pursuant to the Board's Stand-Alone Cost test. At the request of the parties, the Board established a protective order for this proceeding in a decision served on December 15, 2008.

On January 6, 2009, the parties jointly filed a request that the Board adopt an agreed-upon procedural schedule for this proceeding. The parties explain that they have: (1) attempted to follow the format adopted by the Board in Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc., STB Docket No. 42110 (STB served Dec. 11, 2008) (Seminole); (2) slightly extended the time frames to reflect the greater scope and complexity of this complaint; and (3) attempted to minimize conflicting and overlapping filings with the Seminole procedural schedule.

The agreed-upon procedural schedule is reasonable and will be adopted. Additional staff-supervised conferences may be scheduled by the Board as appropriate. The proposed schedule appears to provide ample time for the preparation and submission of evidence, and extension requests seeking additional time will be viewed with disfavor.

It is ordered:

1. The following procedural schedule is set for this proceeding:

February 6, 2009	Staff Supervised Discovery Conference, if necessary.
April 1, 2009	Discovery Closes.
June 15, 2009	Joint Submission of Operating Characteristics Due.
July 24, 2009	Complainant's Opening Evidence Due.
November 19, 2009	Defendant's Reply Evidence Due.
January 26, 2010	Complainant's Rebuttal Evidence Due.
February 16, 2010	Final Briefs Due.

2. This decision is effective on its service date.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan
Acting Secretary