

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42113

ARIZONA ELECTRIC POWER COOPERATIVE, INC.

v.

BNSF RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

Decided: January 8, 2010

This decision modifies the procedural schedule in this proceeding.

The Board established a procedural schedule for this proceeding in a decision served on February 3, 2009. By a decision served on March 16, 2009, the Board modified that schedule at the request of all parties as it pertained to a staff-supervised discovery conference. By a decision served on June 1, 2009, the Board modified and extended the procedural schedule at the request of Arizona Electric Power Cooperative, Inc. (AEPCO) with the concurrence of both defendants, BNSF Railway Company and Union Pacific Railroad Company. On October 30, 2009, AEPCO filed its second unopposed motion to modify the procedural schedule, which the Board granted in a decision served on November 5, 2009.

On January 4, 2010, AEPCO filed its third unopposed motion to extend the procedural schedule. AEPCO states that contract production, which it expected to be completed in early November 2009, was not completed until early December, and that this delayed finalizing the evidence. AEPCO also states that on November 19, 2009, its rail operations expert suffered a severe stroke and is unable to complete the operating plan or related evidence. AEPCO states that it hired another expert to complete the work the original expert could not, and that the new expert requires an additional 10 days to complete the work and finalize the evidence. Therefore, AEPCO requests the following revised procedural schedule, which extends each of the remaining deadlines by approximately 10 days:

January 25, 2010	Complainant's opening evidence
May 7, 2010	Defendants' reply evidence
June 21, 2010	Complainant's rebuttal evidence
July 12, 2010	Closing briefs

AEPCO states that it has been authorized to represent that the defendants do not oppose the requested extension.

AEPCO's motion to extend the procedural schedule will be granted. While repeated requests to modify or extend the procedural schedule are generally disfavored, the Board recognizes that the circumstances detailed above hindered AEPCO's ability to finalize its opening evidence by the current due date.

It is ordered:

1. AEPCO's third unopposed motion to modify the procedural schedule is granted.
2. The procedural schedule in this proceeding is revised as described above.
3. This decision is effective on its service date.

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