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SEC

SERVICE DATE - AUGUST 12, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 41191 (Sub-No. 1)

AEP TEXAS NORTH COMPANY

v.

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: August 11, 2004

On July 27, 2004, AEP Texas North Company (AEP Texas) filed rebuttal evidence in this proceeding. On August 9, 2004, The Burlington Northern and Santa Fe Railway Company (BNSF) filed a motion for an extension of time for filing a responsive pleading to portions of AEP Texas' rebuttal evidence that it contends exceed the scope of permissible rebuttal. Under the Board's rules at 49 CFR 1104.13(a), a party may file a reply or motion addressed to any pleading within 20 days after the pleading is filed with the Board, unless otherwise provided. Thus, if BNSF were to file a responsive pleading it would be due on August 16, 2004. BNSF maintains that the extension of time, until September 9, 2004, is necessary because AEP Texas' rebuttal evidence is so extensive and there are scheduling conflicts with BNSF's counsel and consultants. On August 10, 2004, AEP Texas filed a reply stating that, while there is no basis for BNSF's charges of improper rebuttal, it does not object to BNSF's motion for extension of time. Good cause exists for granting BNSF's motion. Accordingly, the date for filing a responsive pleading will be extended to September 9, 2004.

It is ordered:

1. The due date for BNSF to file a responsive pleading to AEP Texas' rebuttal evidence is extended to September 9, 2004.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary