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SERVICE DATE – MARCH 12, 2015
SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35842

NEW ENGLAND CENTRAL RAILROAD, INC.—TRACKAGE RIGHTS ORDER—
PAN AM SOUTHERN LLC

Digest:¹ This decision grants the parties' request to commence mediation to resolve issues regarding the terms and conditions for one railroad's use of the other's line and issues a procedural schedule to govern the proceeding.

Decided: March 10, 2015

By decision served December 23, 2014, the Board instituted a proceeding to establish new terms and conditions for the trackage rights of Pan Am Southern LLC (PAS) over a New England Central Railroad, Inc. (NECR) line of railroad, extending approximately 72.8 miles, from White River Junction, Vt., to East Northfield, Mass. The Board directed the parties to confer and submit to the Board a proposed procedural schedule for the setting of new terms and conditions by January 22, 2015, and later extended the deadline for the proposed procedural schedule to January 30, 2015.

By letter filed on January 30, 2015, PAS submitted a procedural schedule that provided for Board-sponsored mediation, as well as deadlines, should mediation be unsuccessful, for NECR's opening statement and evidence, PAS's reply to the opening statement and evidence, and NECR's rebuttal. PAS states that parties agree that any new compensation determined either in mediation or by the Board would be retroactive to the date of NECR's June 17, 2014 request to set trackage rights terms and conditions. PAS states that NECR joins in its request and agrees to the procedural schedule it has proposed.

The Board will adopt the procedural schedule agreed upon by the parties and issue a procedural schedule that will allow parties to engage in mediation regarding the issues raised by NECR's request to set terms and conditions. 49 C.F.R. § 1109.2(a)(2). Within 10 days of the service date of this decision, the Acting Chairman will appoint one or more Board employees to serve as mediator(s). The parties may choose to hire a non-Board mediator in accordance with 49 C.F.R. § 1109.3(a). If the parties choose to use a non-Board mediator, they shall file a joint notice with the Board within 10 days of the service date of this decision. The mediation period shall be 30 days, beginning on the date of the first mediation session. 49 C.F.R. § 1109.3(b). As

¹ 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).

agreed upon by the parties, mediation shall be held on or before April 6, 2015. The parties may request to extend mediation by mutual written requests of all parties to the mediation proceeding. Id.

If mediation is not successful in resolving the pending issues, the following procedural schedule will govern this proceeding:

May 11, 2015	NECR Opening Statement and Evidence Due
July 10, 2015	PAS Reply and Reply Evidence Due
August 10, 2015	NECR Rebuttal Argument and Evidence Due

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Parties' request for mediation is granted.
2. Parties shall comply with the procedural schedule set forth in this decision.
3. This decision is effective on the date of service.

By the Board, Acting Chairman Miller and Vice Chairman Begeman.