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SERVICE DATE – APRIL 20, 2016

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42142

CONSUMERS ENERGY COMPANY

v.

CSX TRANSPORTATION, INC.

Decided: April 20, 2016

This decision grants, in part, a request by Consumers Energy Company (Consumers) to modify the procedural schedule in this proceeding.

By decision served on April 10, 2015, the Board established a procedural schedule for Consumers' challenge to the reasonableness of the rates established by CSX Transportation, Inc. (CSXT). By decision served on September 10, 2015, the Board granted Consumers' unopposed motion to modify the procedural schedule.

Pursuant to the current procedural schedule, CSXT filed its reply evidence on March 7, 2016. On March 14, 2016, Consumers filed a petition for technical conference, alleging that CSXT's reply evidence was not in compliance with certain procedures previously prescribed by the Board. CSXT filed a response to Consumers' petition on March 21, 2016, in which CSXT provided additional information for many of the alleged violations. In a decision served on April 6, 2016, the Board denied Consumers' petition but ordered CSXT to clarify certain elements of its reply evidence by April 11, 2016. CSXT filed its response to the Board's order on April 8, 2016, further clarifying its reply evidence.

On April 13, 2016, Consumers filed a motion to further modify the procedural schedule. Consumers argues that the time needed to resolve the alleged problems with CSXT's evidence would further compress the already limited time available to Consumers for the preparation of its rebuttal evidence. Consumers requests an additional 32 days to file its rebuttal evidence (currently due on May 6, 2016), and an additional 32 days for both parties to file their final briefs (currently due on June 10, 2016).

CSXT filed its reply on April 15, 2016, opposing Consumers' request for an extension of time. CSXT argues that Consumers has not justified an extension, yet states that, to the extent any extension of time is provided, it should be limited to no more than the 14 days that elapsed between CSXT filing its reply evidence and CSXT filing its response to Consumers' petition.

Consumers' motion to further modify the procedural schedule will be granted in part. Although the Board finds that a 32-day extension is not warranted, it does find that a limited

extension of 14 days is reasonable in this case. Therefore, the Board will adopt the following modified procedural schedule:

Complainant's Rebuttal  
Closing Briefs

May 20, 2016  
June 24, 2016

It is ordered:

1. Consumers' motion to further modify the procedural schedule is granted in part. The procedural schedule in this proceeding is modified as described above.
2. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.