

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42115

US MAGNESIUM, L.L.C.

v.

UNION PACIFIC RAILROAD COMPANY

Decided: January 15, 2010

This decision modifies the procedural schedule in this proceeding.

By a complaint filed on June 25, 2009, US Magnesium, L.L.C. (USM) challenges the reasonableness of rates charged by Union Pacific Railroad Company (UP) for the movement of chlorine by tank car from Rowley, UT, to Los Angeles, CA, Mojave, CA, Ontario, CA, Santa Fe Springs, CA, Saugus, CA, Torrance, CA, and Henderson, NV. USM seeks relief pursuant to the simplified procedures set forth in Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1) (STB served Sept. 5, 2007) (Simplified Standards), aff'd sub nom. CSX Transp., Inc. v. STB, 568 F.3d 236 (D.C. Cir. 2009), and vacated in part on reh'g, CSX Transp., Inc. v. STB, No. 07-1369 et al. (D.C. Cir. Oct. 23 2009). USM has elected to utilize the simplified stand-alone cost (Simplified-SAC) method, under which the total available rate relief is limited to \$5 million over a 5-year period.

The parties requested a procedural schedule pursuant to 49 CFR 1111.9(a)(1), and the Board adopted the proposed procedural schedule in a decision served October 22, 2009.

On January 5, 2010, USM filed a motion to modify the procedural schedule. USM states that UP's second disclosure, which was timely provided to USM on November 12, 2009, was based on outdated information, and that, while UP acted in good faith to update the disclosure, there was a nearly 6-week delay in USM receiving the updated information. USM states that this delay has unduly complicated its preparation of opening evidence, currently due February 1, 2010, and USM requests that the Board extend the remaining deadlines by approximately 2 weeks.

On January 6, 2010, UP filed a reply to USM's motion, stating that it does not oppose extending the procedural schedule as long as the Board extends the deadline for filing final briefs by an additional 2 weeks. UP states that the due date for final briefs proposed by USM conflicts directly with one of UP's filing deadlines in another proceeding before the Board.

USM's motion to extend the procedural schedule, and UP's request to extend the deadline for final briefs by an additional 2 weeks, are reasonable and will be granted. The Board

recognizes that the circumstances detailed above hindered USM's ability to finalize its opening evidence by the current due date, and that UP would be similarly hindered in preparing its final brief by the due date proposed by USM because of a conflict with a procedural schedule in another Board proceeding.

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

It is ordered:

1. USM's motion to extend the procedural schedule is granted.
2. UP's request to extend the due date USM proposed for final briefs is granted.
3. The procedural schedule in this proceeding is revised as follows:

Opening Evidence	February 16, 2010
Reply Evidence	April 15, 2010
Rebuttal Evidence	May 17, 2010
Technical Conference (market dominance and merits)	May 25, 2010
Final Briefs	June 18, 2010

4. This decision is effective on its service date.

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