

43891
DO

SERVICE DATE – AUGUST 22, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 661 (Sub-No. 2)

RAIL FUEL SURCHARGES (SAFE HARBOR)

Decided: August 21, 2014

The Board, in a decision served on May 29, 2014, invited comments on whether the safe harbor provision of Rail Fuel Surcharges, EP 661 (STB served Jan. 26, 2007), should be modified or removed. In a decision served on July 8, 2014, the Board extended the due date for filing comments and replies by 30 days to August 4, 2014, and September 15, 2014, respectively.

On August 7, 2014, Union Pacific Railroad Company (UP) filed a motion requesting that the due date to file replies be extended by 30 days. UP states that the extension is warranted because the comments filed “went beyond the basic focus” of the proceeding and because comments in a number of other Board proceedings are due before September 15, 2014.

Letters in support of the extension request were filed by the Arkansas Electric Cooperative Corporation (AECC) on August 8, 2014, and by Highroad Consulting, Ltd. (Highroad) and The Mercury Group (Mercury) on August 11, 2014 (collectively, Respondents). Respondents disagree with UP’s contention that the comments went beyond the basic focus of the proceeding but do not oppose the extension request. AECC and Highroad agree that the current due date presents a challenge to counsel preparing comments in other Board proceedings with filing dates in late August and early September. Mercury requests that the procedural schedule be expanded to include rebuttal statements to ensure a fully developed record.

UP’s request for an extension is unopposed and will be granted. The due date for filing replies will be extended for 30 days to October 15, 2014. Mercury’s request for an expansion of the procedural schedule to include rebuttal statements will be denied. The procedural schedule that was adopted and previously expanded gives interested parties an adequate opportunity to present their positions and to offer further support for those positions and/or to reply to the positions expressed by others.

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

It is ordered:

1. The due date for filing replies is extended to October 15, 2014.
2. Mercury's request for an expansion of the procedural schedule to include rebuttal statements is denied.
3. This decision is effective on its service date.

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