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SERVICE DATE—FEBRUARY 25, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY—TERMINAL TRACKAGE RIGHTS—KANSAS
CITY SOUTHERN RAILWAY COMPANY AND UNION PACIFIC RAILROAD
COMPANY

Decided: February 25, 2015

On February 27, 2013, BNSF Railway Company (BNSF) filed an application under 49 U.S.C. § 11102(a) for terminal trackage rights over the Rosebluff Industrial Lead (the RIL), track that is jointly owned by Kansas City Southern Railway Company (KCS) and Union Pacific Railroad Company (UP). The RIL connects to the former Southern Pacific Transportation Company Lafayette Subdivision that is now jointly and equally owned by BNSF and UP. The RIL connects at milepost 223.3 and extends approximately nine miles to the south.

KCS and UP filed separate replies on March 19, 2013, in opposition to BNSF's application for terminal trackage rights. On April 24, 2013, CITGO Petroleum Corporation (CITGO) filed a petition to intervene in support of BNSF's petition.¹

Following the conclusion of Board-ordered mediation, the Board adopted a procedural schedule by decision served on November 25, 2014. BNSF filed its opening statement on December 31, 2014. Replies are due March 2, 2015, and the rebuttal is due March 31, 2015.

On January 15, 2015, KCS filed a motion to compel responses to KCS's first set of discovery requests directed to BNSF. BNSF replied to the motion on February 4, 2015. KCS filed a second motion on February 6, 2015, to compel responses to KCS's second set of discovery requests directed to BNSF. On February 9, 2015, KCS filed a motion to compel responses to KCS's first set of discovery requests directed to CITGO. BNSF's reply to KCS's second motion is due February 26, 2015, and CITGO's response is due March 2, 2015, which is also the due date for KCS's reply on the merits.

Given these circumstances, the Board will hold this proceeding in abeyance pending the resolution of the discovery disputes and further order of the Board.

¹ The Board granted CITGO's petition to intervene in a decision served on April 14, 2014.

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

It is ordered:

1. This proceeding is held in abeyance pending resolution of the discovery disputes and further order of the Board.
2. This decision is effective on its date of service.

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