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SEC

SERVICE DATE - LATE RELEASE AUGUST 29, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42054

PPL MONTANA, LLC

v.

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: August 29, 2002

In a motion filed on August 22, 2002, complainant, PPL Montana, LLC (PPL), requests a 20-day extension of the September 9, 2002 due date for filing a petition for reconsideration of the decision on the merits served in this proceeding on August 20, 2002 (August 20 decision). PPL also requests a waiver of the procedural rule at 49 CFR 1115.3 that limits the length of pleadings to 20 pages to allow it to file a 40-page petition for reconsideration. The Burlington Northern and Santa Fe Railway Company (BNSF), defendant in this proceeding, filed a reply on August 23, 2002. While BNSF agrees that a brief extension of time may be appropriate under the circumstances, it objects to any expansion of the 20-page limit.

PPL states that it needs an extension of time until September 30, 2002, to file its petition for reconsideration to accommodate the schedule of its consultant, Mr. Thomas Crowley of L.E. Peabody & Associates, who is on call as a witness in a trial involving another rate proceeding. BNSF states that it does not oppose a brief extension of time to accommodate Mr. Crowley's schedule, but submits that any extension should be limited to correspond to the amount of time that Mr. Crowley is absent. Because it is impossible to determine how long Mr. Crowley will be involved in the other proceeding, it is reasonable to grant the extension request and extend the due date for PPL to file a petition for reconsideration of the August 20 decision until September 30, 2002.

PPL's request for waiver of the 20-page limitation, however, will be denied. PPL argues that the Board's approach to the stand-alone cost constraint in the August 20 decision is both significant and a departure from prior applications of the constraint in coal rate cases. Therefore, PPL submits that the parties should be afforded a more generous page limit to permit fuller analyses of the issues. But the Board's cross subsidy analysis is simply an application of the Board's long-standing stand-alone cost principles. See August 20 decision at 8-9. Under the circumstances, the request to exceed the page limitation of 49 CFR 1115.3 has not been justified.

It is ordered:

1. PPL's request to extend the due date for filing a petition for reconsideration of the August 20 decision until September 30, 2002, is granted.
2. PPL's request for waiver of the procedural rule at 49 CFR 1115.3 to allow it to file a 40-page petition for reconsideration is denied.
3. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary