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September 9, 2015  
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BEFORE THE  
SURFACE TRANSPORTATION BOARD

CONSUMERS ENERGY COMPANY )

Complainant, )

v. )

CSX TRANSPORTATION, INC. )

Defendant. )

Docket No. NOR 42142	
 <b>GRANTED</b>	DECISION ID NO.: <u>44729</u>
	DECIDED DATE: <u>9/10/15</u>
	SERVICE DATE: <u>9/10/15</u>
	APPROVED: <u>Rachel D. Campbell</u> Director
Office of Proceedings	<input type="checkbox"/>

**UNOPPOSED MOTION TO MODIFY PROCEDURAL SCHEDULE**

Complainant, Consumers Energy Company (“Consumers”) submits this Motion to modify the procedural schedule that currently governs this case. Defendant CSX Transportation, Inc. (“CSXT”) does not oppose the relief requested herein.

In support hereof, Consumers shows as follows:

1. Consumers’ Original Complaint in this proceeding seeks relief under the Constrained Market Pricing methodology set forth in the Board’s *Coal Rate Guidelines*.<sup>1</sup> *Inter alia*, Consumers’ case specifically includes a claim under the Stand-Alone Cost (SAC) Constraint described in the *Guidelines*.

<sup>1</sup> *Coal Rate Guidelines – Nationwide*, 1 I.C.C. 2d 520 (1985), *aff’d. sub nom., Consol. Rail Corp. v. United States*, 812 F.2d 1444 (3d Cir. 1987).

2. By Order served on April 10, 2015, the Board established a procedural schedule to govern this case that set the following filing due dates:

Complainant's Opening Evidence:	October 2, 2015
Defendant's Reply Evidence:	February 2, 2016
Complainant's Rebuttal Evidence:	April 1, 2016
Final Briefs:	May 6, 2016

3. The parties have engaged in extensive discovery with respect to the issues in this case, with relatively few disputes that could not be resolved without the Board's assistance. Despite the parties' good faith efforts, however, the volume and complexity of the data that must be managed and utilized in order to apply the SAC test has required frequent conferences, follow-up requests, requests for clarifications, and other exchanges that together have consumed considerable time. As a result, Consumers now proposes a modification of the current schedule to allow additional time for the submission of its Opening Evidence, while maintaining the spacing between the parties' filings provided in the Board's April 10 Order.

4. Consumers requests that the Board modify the current schedule by setting the following, new filing dates:

Complainant's Opening Evidence:	November 2, 2015
Defendant's Reply Evidence:	March 7, 2016
Complainant's Rebuttal Evidence:	May 6, 2016
Final Briefs:	June 10, 2016

5. Consumers respectfully submits that the foregoing modifications, which essentially amount to 30-day extensions of all current dates, are reasonable and should be adopted. Counsel for Consumers has consulted with counsel for CSXT, and has been authorized to state that CSXT does not oppose the relief sought.

WHEREFORE, for good cause shown, Consumers requests that the Board modify the governing Procedural Schedule in this case, in the manner described above.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

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Dated: September 9, 2015

Attorneys & Practitioners

## CERTIFICATE OF SERVICE

I hereby certify that this 9<sup>th</sup> day of September, 2015, I caused a copy of the foregoing Unopposed Motion to Modify Procedural Schedule to be served by electronic mail on the following counsel for Defendant CSX Transportation, Inc.:

G. Paul Moates, Esq.  
Raymond A. Atkins, Esq.  
Matthew J. Warren, Esq.  
Sidley Austin LLP  
1501 K Street, NW  
Washington, D.C. 20005

I also caused the foregoing Motion to be served by overnight delivery on the following counsel for CSXT:

Peter J. Shudtz, Esq.  
Paul R. Hitchcock, Esq.  
John P. Patelli, Esq.  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202

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/s/ Katherine F. Waring