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SEC

SERVICE DATE – MAY 6, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42110

SEMINOLE ELECTRIC COOPERATIVE, INC.

v.

CSX TRANSPORTATION, INC.

Decided: May 6, 2009

This decision grants a motion to revise the procedural schedule filed by Seminole Electric Cooperative, Inc. (SECI).

In this proceeding, SECI challenges the reasonableness of the rates established by CSX Transportation, Inc. (CSXT) for transportation of coal from various origins to SECI's Seminole Generating Station, near Palatka, FL. SECI alleges that CSXT possesses market dominance over this traffic and requests that reasonable rates be prescribed pursuant to the Board's stand-alone cost (SAC) test.

By a motion filed on April 30, 2009, SECI requests that the Board revise the current procedural schedule with respect to the filing of evidence and briefs. SECI requests an extension of the deadline for filing its opening evidence from June 1, 2009, to July 31, 2009. SECI also requests corresponding extensions of the deadlines for CSXT's reply evidence, from August 31, 2009, to November 18, 2009; SECI's rebuttal evidence, from October 15, 2009, to January 8, 2010; and both parties' closing briefs, from November 4, 2009, to January 28, 2010.

SECI maintains that the discovery process has proven more complex than the parties anticipated, and that SECI needs additional time to develop SAC evidence. SECI contends that the development of its evidence has been slowed by the necessity of adapting to the new processes adopted in Major Issues in Rail Rate Cases, STB Ex Parte No. 657 (Sub-No. 1), aff'd sub nom. BNSF v. STB, 526 F.3d 770 (D.C. Cir. 2008), particularly the allocation of revenues for cross-over traffic under the Average Total Cost (ATC) procedure. SECI states that it has been authorized to represent that CSXT concurs with the requested changes to the procedural schedule.

Because SECI states that additional time is necessary to develop SAC evidence and the request is not opposed, the request is reasonable and will be granted.

It is ordered:

1. SECI's motion to revise the procedural schedule is granted.

2. The procedural schedule in this proceeding is revised as follows:

July 31, 2009	Complainant's opening evidence due.
November 18, 2009	Defendant's reply evidence due.
January 8, 2010	Complainant's rebuttal evidence due.
January 28, 2010	Closing briefs due.

3. This decision is effective on its date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan
Acting Secretary