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SEC

SERVICE DATE – JANUARY 19, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42071

OTTER TAIL POWER COMPANY
v.
THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY

Decided: January 18, 2005

By a motion filed on January 7, 2005, Otter Tail Power Company (Otter Tail) seeks an extension of the procedural schedule set by the Board in a decision served on December 13, 2004. Otter Tail seeks to change the deadline for filing supplemental evidence for both parties from January 27, 2005, to February 22, 2005. Otter Tail also requests an extension of the time for both parties to submit reply evidence, changing the deadline from February 16, 2005, to March 21, 2005. Otter Tail explains that The Burlington Northern and Santa Fe Railway Company (BNSF) concurs in the extension of the deadline for filing supplemental evidence on the condition that Otter Tail request an additional 7 days beyond the usual 20 days for filing reply evidence.

Otter Tail states that the extension is needed because it did not receive a working Rail Traffic Controller (RTC) computer model from BNSF until January 7, 2005. Now that it has received a working model, Otter Tail states that it can complete its supplemental evidence within the 45-day time frame originally set by the Board. Also, the analysis of the RTC generated data is sufficiently complex to justify the relatively short extension of the time for filing reply evidence.

The requests are reasonable. Accordingly, the motion to extend the procedural schedule will be granted.

As part of the new procedural schedule, the Board is also establishing a briefing schedule, providing for a single round of simultaneous briefs, not exceeding 25 pages in length, to be filed by April 20, 2005. In the briefs, each party should set forth its position on key issues in light of the full record and identify issues that have been narrowed or are no longer in dispute. The parties are reminded that new evidence is not permitted in briefs and will be subject to motions to strike and other sanctions.

Any oral argument the Board deems appropriate will be scheduled in a subsequent order.

It is ordered:

1. Otter Tail's motion to modify the procedural schedule, as established in the December 13, 2004 decision, is granted.

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

February 22, 2005	Supplemental evidence is due.
March 21, 2005	Reply evidence is due.
April 20, 2005	Briefs are due.

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

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary