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SERVICE DATE – AUGUST 7, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42121

TOTAL PETROCHEMICALS & REFINING USA, INC.

v.

CSX TRANSPORTATION, INC.

Decided: August 7, 2015

Total Petrochemicals & Refining USA, Inc. (TPI) has sought reconsideration of a decision issued on July 24, 2015 (Supplemental Evidence Order), in which the Board addressed TPI's petition to supplement the record (filed November 5, 2014), ordered TPI and CSX Transportation, Inc. (CSXT) to each submit sufficient supplemental evidence to allow the Board to consider the parties' operating plans, and established a procedural schedule to complete the submission of evidence in this rate reasonableness phase of this proceeding. On the same day, the Board also issued a decision ordering the parties to submit compliance evidence (Compliance Evidence Order). Under the procedural schedule, the parties' supplemental and compliance evidence filings are due on September 22, 2015.

On July 31, 2015, TPI filed a petition for reconsideration and clarification of the Supplemental Evidence Order.¹ TPI claims that it will be difficult and expensive to meet the September 22, 2015 deadline regardless of any delay related to the petition for reconsideration, and therefore asks that the Board give expedited consideration to its petition. TPI argues that resolution of the petition for reconsideration will determine how the parties prepare their supplemental and compliance evidence. TPI requests that the Board order CSXT to file its reply by August 7, 2015, which is 13 days before the 20-day deadline for a reply to a petition for reconsideration, here, August 20, 2015. See 49 C.F.R. § 1104.13(a). On August 4, 2015, CSXT filed a reply to TPI's request that the Board alter the reply filing deadline, stating that it plans to file its reply by August 12, 2015, which is eight days early.

TPI has not given sufficient reason to demonstrate the need for a reply within seven days, and the Board, therefore, will deny TPI's request that it order CSXT to reply by August 7, 2015. Given that CSXT has consented to file its reply eight days before the deadline, the due date for CSXT's response will be August 12, 2015.

¹ TPI does not ask the Board to reconsider the Compliance Evidence Order except to the extent there are collateral effects on the order that result from reconsideration of the Supplemental Evidence Order.

It is ordered:

1. TPI's request that the Board order CSXT to reply to TPI's petition for reconsideration by August 7, 2015 is denied.
2. The due date for CSXT's response to TPI's petition for reconsideration is August 12, 2015.
3. This decision is effective on the date of service.

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