

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34974

KEOKUK JUNCTION RAILWAY COMPANY d/b/a PEORIA AND WESTERN RAILWAY
– LEASE AND OPERATION EXEMPTION –
BNSF RAILWAY COMPANY

Decided: December 20, 2006

By petition filed December 7, 2006, under 49 U.S.C. 10502 and the Board's exemption procedures at 49 CFR 1121, et seq., Keokuk Junction Railway Company, d/b/a Peoria & Western Railway (KJR), requested an exemption from the requirements of 49 U.S.C. 10902 to lease and to operate a line of railroad owned by BNSF Railway Company (BNSF). The line extends between Vermont (milepost 94.3) and Farmington (milepost 52.2), in Fulton County, IL, and consists of approximately 42.1 miles of main line trackage.

By motion filed on December 7, 2006, KJR asked the Board to enter a protective order concerning documents attached to a confidential version of its petition for exemption. By pleading filed on December 13, 2006, Ameren Energy Fuels and Services Company (Ameren) objected to certain aspects of the protective order proposed by KJR. By decision served on December 19, 2006, a protective order was imposed in this proceeding.

By motion filed on December 15, 2006, Ameren requests an extension of the deadline for filing a reply to KJR's petition for exemption from December 27, 2006, until the latter of (a) January 8, 2007, or (b) 20 days from the date that a protective order is entered in this proceeding, which would also be January 8, 2007. Ameren maintains that an extension is necessary because its preparation of an adequate reply requires that it be given access to the unredacted version of the petition filed by KJR under seal. Ameren points out that it will not be allowed to see these materials until the Board issues a protective order in this proceeding and cites the seasonal holidays as an additional reason for its extension request. Ameren contends that extensions have been granted for similar reasons in other proceedings, and, while KJR does object, the requested extension would not prejudice KJR or unduly delay this proceeding.¹

¹ According to Ameren, KJR is objecting primarily because a potential shipper on the line, Central Illinois Energy, has requested KJR to do so. As Ameren points out, however, BNSF continues to have a common carrier obligation to provide service on the line.

By pleading filed on December 19, 2006, KJR objects to the extension requested by Ameren, arguing that Ameren can adequately reply to its petition without examining the unredacted version and that an extension would unduly delay this proceeding.

The extension requested by Ameren will be granted. Ameren should not be required to reply to material in a confidential document that it will not be able to examine fully until a protective order is issued. The requested extension will give Ameren 20 days, the standard period allowed for a reply, to examine the unredacted petition and prepare its reply. The extension will also allow the parties to accommodate seasonal holidays, as the agency has permitted during this time of year. The requested extension will not unduly delay this proceeding.

It is ordered:

1. Ameren's motion for an extension is granted, and the deadline for Ameren's reply to KJR's petition for exemption is extended until January 8, 2007.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary