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SEC

SERVICE DATE - LATE RELEASE JUNE 1, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42113

ARIZONA ELECTRIC POWER COOPERATIVE, INC.

v.

BNSF RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

Decided: June 1, 2009

This decision modifies the procedural schedule in this proceeding.

The Board established a procedural schedule for this proceeding in a decision served on February 3, 2009. By a decision served on March 16, 2009, the Board modified that schedule at the request of the parties as it pertained to a staff-supervised discovery conference.

Arizona Electric Power Cooperative, Inc. (AEPCO) has filed a motion to modify the procedural schedule. AEPCO asserts that an extension is appropriate because this proceeding involves two defendants, two distinct shipping origins, and because disputes over the geographic scope of the stand-alone railroad have delayed the production of necessary data in discovery. AEPCO claims that the complexities of this proceeding have been compounded by the Board's adoption of the new average total cost procedure for developing revenue divisions for cross-over traffic. See Major Issues in Rail Rate Cases, STB Ex Parte No. 657 (Sub-No. 1) (STB served Oct. 30, 2006), aff'd sub nom. BNSF Ry. Co. v. STB, 526 F.3d 770 (D.C. Cir. 2008). AEPCO states that it has been authorized to represent that both defendants, BNSF Railway Company and Union Pacific Railroad Company, concur in the relief requested.

The request will be granted. However, to ensure that AEPCO's complaint is adjudicated in a timely manner, the parties are expected to proceed with the revised schedule provided in this decision. Additional requests to modify or extend the procedural schedule in this proceeding will be viewed unfavorably.

It is ordered:

1. AEPCO's motion to modify the procedural schedule is granted.

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

July 10, 2009	Discovery completed
September 11, 2009	Joint submission of operating characteristics
November 13, 2009	Complainant's opening evidence
February 25, 2010	Defendants' reply evidence
April 9, 2010	Complainant's rebuttal evidence
April 30, 2010	Closing briefs

3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary