

41826
DO

SERVICE DATE – LATE RELEASE AUGUST 25, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42125

E.I. DUPONT DE NEMOURS AND COMPANY

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Decided: August 25, 2011

This decision grants a motion to modify the procedural schedule filed by E.I. du Pont de Nemours and Company (DuPont).

By decision served on February 24, 2011, the Board established a procedural schedule for DuPont's challenge to the reasonableness of rates established by Norfolk Southern Railway Company (NSR). On June 30, 2011, the day discovery was scheduled to close, DuPont filed a motion to modify the procedural schedule. In that motion, DuPont stated that discovery could not be completed by the June 30, 2011 deadline because NSR objected to the disclosure of traffic event files, claiming that the files contained sensitive security information. NSR replied to DuPont's motion on July 11, 2011, and DuPont filed a response on July 12, 2011.

NSR has since produced the requested traffic data, and on August 9, 2011, DuPont filed another motion to modify the procedural schedule in light of this development. DuPont's proposed schedule would adjust the due dates in the current schedule by approximately three months in order to account for the three-month delay in production of the requested traffic data. Specifically, DuPont requests that the Board adopt the following modified procedural schedule:

Discovery Closes	September 30, 2011
Joint Submission of Operating Characteristics	December 15, 2011
Complainant's Opening	January 31, 2012
Defendant's Reply	May 31, 2012
Complainant's Rebuttal	September 28, 2012
Closing Briefs	November 2, 2012

DuPont states that it has been authorized to represent that NSR does not oppose the motion.

DuPont's unopposed motion to modify the procedural schedule, filed on August 9, 2011, will be granted. The procedural schedule in this proceeding will be revised as described above.¹

The parties' filings must be compatible with the Board's current computing environment Windows 7, Office 10, and 64 bit processing. Anything incompatible with that configuration cannot be accepted and may be rejected under 49 C.F.R. § 1104.10.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. DuPont's motion to modify the procedural schedule, filed on August 9, 2011, is granted. The procedural schedule in this proceeding is revised as described above.
2. DuPont's motion to modify the procedural schedule, filed on June 30, 2011, is denied as moot.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

¹ DuPont's prior motion to modify the procedural schedule, filed on June 30, 2011, will be denied as moot.