

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42060 (Sub-No. 1)

NORTH AMERICA FREIGHT CAR ASSOCIATION

v.

BNSF RAILWAY COMPANY

Decided: June 22, 2005

By a letter filed on June 17, 2005, North America Freight Car Association (NAFCA) requests an extension of the procedural schedule set by the Board in a decision served on March 18, 2005. NAFCA seeks to change the filing deadline for Complainant's and Intervenors' opening statements from June 29, 2005, to July 29, 2005. NAFCA also requests an extension of the time for BNSF Railway Company (BNSF) to submit reply evidence, changing the deadline from July 29, 2005, to September 16, 2005, and for NAFCA to submit rebuttal evidence, changing the deadline from August 29, 2005, to October 17, 2005. NAFCA explains that BNSF concurs in this extension of the procedural schedule.

NAFCA states that the extension is needed because of delays in its receiving certain discovery information. NAFCA states that the transcript of its deposition of a BNSF witness, which exceeds 325 pages, was not received until June 16, 2005. Further, it explains that it was not until May 4, 2005, that it received all of the information necessary for it to make use of BNSF's discovery data, encompassing approximately 500 million car movement records. Given these delays, NAFCA states that it will not be able to analyze these movements in time to meet the current opening statement due date.

Further, at BNSF's counsel's request, NAFCA agreed to an extension of BNSF's reply due date until mid-September to accommodate the planned August vacations of BNSF's counsel and witnesses. Correspondingly, NAFCA's rebuttal due date will be moved to mid-October to maintain at least a 30-day interval from BNSF's reply.

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

It is ordered:

1. NAFCA's request to modify the procedural schedule, as established in the March 18, 2005 decision, is granted.

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

July 29, 2005 Opening Statements of Complainant and Intervenors due

September 16, 2005 Reply statement of Defendant due

October 17, 2005 Rebuttal statement of Complainant due

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

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary