

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34527

MAUMEE & WESTERN RAILROAD COMPANY AND RMW VENTURES LLC–
PETITION FOR DECLARATORY ORDER–
CSX TRANSPORTATION, INC. CROSSING RIGHTS AT DEFIANCE, OH

Decided: September 30, 2005

On July 16, 2004, Maumee & Western Railroad Company (M&W) and RMW Ventures LLC (RMW) (collectively, petitioners) filed and served on CSX Transportation, Inc. (CSXT), a petition for a declaratory order. Petitioners requested that a proceeding be instituted to determine whether specific actions of CSXT unreasonably interfered with the common carrier rail service operations of M&W in violation of 49 U.S.C. 10901(d) and M&W's statutory rights and obligations to provide common carrier rail service under its certificate of public convenience and necessity issued by the Board pursuant to 49 U.S.C. 10901(a).

By decision served on July 13, 2005, the Board instituted a declaratory order proceeding and established a procedural schedule. By decisions served on July 22, 2005, and September 19, 2005, the procedural schedule was modified. Under the current procedural schedule, CSXT's reply is due on October 3, 2005, and petitioners' rebuttal is due on October 18, 2005.

By letter filed on September 28, 2005, petitioners and CSXT jointly request that the Board again modify the procedural schedule. According to CSXT, its staff and counsel have not been able to complete discovery because they have been engaged in arranging trackage rights to reinstate service to New Orleans in the aftermath of Hurricane Katrina. Additionally, petitioners claim that their counsel has a scheduling conflict with the current due date for replies. Petitioners and CSXT thus propose a new schedule, which would establish October 27, 2005, as the reply due date, and November 11, 2005, as the rebuttal due date.¹

Good cause exists to extend the procedural schedule in this case. Accordingly, the modification to the procedural schedule proposed by the petitioners and CSXT will be adopted.

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

¹ Because the Board's offices will be closed on November 11, 2005, in observance of Veterans' Day, petitioners' rebuttal will be due on the following business day, November 14, 2005.

It is ordered:

1. Petitioners' and CSXT's joint request to modify the procedural schedule is granted.
2. CSXT's reply is due by October 27, 2005.
3. Petitioners' rebuttal statement is due by November 14, 2005.
4. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary