

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42115

US MAGNESIUM, L.L.C.

v.

UNION PACIFIC RAILROAD COMPANY

Decided: February 10, 2010

This decision modifies the procedural schedule in this proceeding.

By a complaint filed on June 25, 2009, US Magnesium, L.L.C. (USM) challenges the reasonableness of rates charged by Union Pacific Railroad Company (UP) for the movement of chlorine by tank car from Rowley, UT, to Los Angeles, CA, Mojave, CA, Ontario, CA, Santa Fe Springs, CA, Saugus, CA, Torrance, CA, and Henderson, NV. USM seeks relief pursuant to the simplified procedures set forth in Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1) (STB served Sept. 5, 2007), aff'd sub nom. CSX Transp., Inc. v. STB, 568 F.3d 236 (D.C. Cir. 2009), and vacated in part on reh'g, CSX Transp., Inc. v. STB, 584 F.3d 1076 (D.C. Cir. 2009). USM has elected to utilize the simplified stand-alone cost (Simplified-SAC) method, under which the total available rate relief is limited to \$5 million over a 5-year period.

The parties requested a procedural schedule pursuant to 49 CFR 1111.9(a)(1), and the Board adopted the proposed procedural schedule in a decision served October 22, 2009. By decision served January 15, 2010, the Board granted an unopposed motion from USM to extend the procedural schedule, as well as a request from UP to further extend the deadline for final briefs.

On February 4, 2010, USM and UP filed a joint motion to modify the procedural schedule. The parties state that USM has requested supplemental information from UP that it needs to verify and replicate the calculations contained in UP's second disclosure, and that this exchange, and USM's ensuing analysis, require an extension of the procedural schedule. Furthermore, the parties state that UP provided a corrected second disclosure to USM on January 29, 2010, but that UP has since determined that the disclosure contains additional errors that will have to be addressed in a new second disclosure.

The parties request that the deadline for USM's opening evidence be extended by approximately 6 weeks. Additionally, the parties state that because UP is attempting to balance procedural schedules in multiple proceedings before the Board, an extension of the deadline by

approximately 11 weeks is warranted for UP's reply and, in turn, for the remainder of the deadlines.

The parties' motion to extend the procedural schedule is reasonable and will be granted.

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

It is ordered:

1. The parties' joint motion to extend the procedural schedule is granted.
2. The procedural schedule in this proceeding is revised as follows:

Opening Evidence	March 31, 2010
Reply Evidence	July 2, 2010
Rebuttal Evidence	August 2, 2010
Technical Conference (market dominance and merits)	August 12, 2010
Final Briefs	September 1, 2010

3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.