

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42071

OTTER TAIL POWER COMPANY

v.

BNSF RAILWAY COMPANY<sup>1</sup>

Decided: March 18, 2005

By a request filed on March 16, 2005, BNSF Railway Company (BNSF) seeks an extension of the procedural schedule set by the Board in a decision served on December 13, 2004, as modified in decisions served on January 19, 2005, and February 18, 2005. BNSF seeks to change the deadline for filing supplemental reply evidence for both parties, from March 28, 2005, to April 4, 2005. BNSF also requests an extension of the time for both parties to submit briefs, changing the deadline from April 20, 2005, to April 27, 2005. BNSF states that Otter Tail Power Company (Otter Tail) has advised BNSF that it does not oppose this extension request.

BNSF states that the extension is needed to provide it with sufficient time to analyze Otter Tail's errata to its supplemental evidence, which was filed on March 14, 2005, nearly two weeks after its supplemental evidence was due and filed. In its errata, Otter Tail revised its supplemental evidence by making significant changes to its Rail Traffic Controller (RTC) computer model analysis. BNSF believes that these changes will take several days to evaluate fully and requests an additional week for the parties to file their supplemental reply evidence.

The running of the RTC computer model and the analysis of the RTC generated data are sufficiently complex to justify the relatively short extension of the time for filing supplemental reply evidence.

BNSF also claims that the additional time needed for it to evaluate Otter Tail's errata filing will reduce the amount of time it has to prepare its final brief. If the deadline for briefs is not moved, briefs would be due less than two and a half weeks after supplemental replies are filed. Given the importance of the final briefs in the evaluation of the complex record in this case, a one-week extension of the briefing schedule is justified.

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

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<sup>1</sup> Effective January 20, 2005, The Burlington Northern and Santa Fe Railway Company changed its name to BNSF Railway Company.

It is ordered:

1. The request for extension of the procedural schedule is granted.
2. The procedural schedule in this proceeding is modified as follows:

April 4, 2005  
April 27, 2005

Reply evidence is due.  
Briefs are due.

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

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary