

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED

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April 2, 2014

Part of

Public Record

E.I. DUPONT DE NEMOURS & COMPANY

Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Defendant.

Docket No. NOR 42125

**NORFOLK SOUTHERN RAILWAY COMPANY’S REPLY TO MOTION FOR
EXTENSION OF TIME TO FILE PETITIONS FOR RECONSIDERATION**

Norfolk Southern Railway Company (“NS”) respectfully submits this Reply to E.I. du Pont de Nemours and Company’s (“DuPont’s”) Motion for Extension of Time to File Petitions for Reconsideration of the Board’s final Decision in this case (served with appendices March 24, 2014) (“March 24 Decision”). NS supports DuPont’s Motion, which requests that the Board defer the due date for any Petitions for Reconsideration of the March 24 Decision until twenty days after the Board issues a Decision addressing technical corrections. DuPont’s proposal that the Board first make necessary technical corrections to its March 24 Decision, before requiring parties to decide whether to petition for reconsideration, is reasonable and will conserve the resources of the parties and the Board.

Because this case is unusually large and complex, the March 24 Decision and the workpapers underlying that Decision require significant, time-consuming analysis to understand the Board’s reasoning and to identify any points that might require technical correction. NS agrees with DuPont that there are matters in the March 24 Decision that require technical correction, and NS agrees that certain of those technical corrections have a significant impact on the SAC results. *See* Motion at 2 & n.2. Because these potential technical corrections may

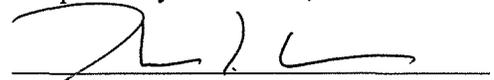
affect what issues the parties might raise on reconsideration, it is in the best interests of both the Board and the parties to resolve such technical corrections before the parties file any possible petitions for reconsideration. Indeed, because DuPont indicates that the Board’s technical corrections decision may affect DuPont’s decision “whether even to seek reconsideration at all,” *id.* at 3, granting DuPont’s request accords with the important policy interest in conserving the Board’s and the parties’ resources.

NS will be working with DuPont to prepare a joint petition identifying necessary technical corrections in the March 24 Decision, which the parties intend to file no later than April 14, 2014. The Board should clarify now that parties have the right to file petitions for reconsideration of any issue set forth in a corrected Decision or the March 24 Decision, and that such petitions will be due within 20 days of the date the Board issues its corrected Decision. Doing so would ensure that the Board has sufficient time to analyze the joint petition and issue a corrected Decision on which the parties can rely for determining whether or on what issues to seek reconsideration.¹

¹ While 49 C.F.R. § 1115.3(e) only permits the Board to grant extensions of the time for petitions for reconsideration that do not “exceed 20 days,” the regulation does not preclude the Board from clarifying that it will consider petitions for reconsideration filed within 20 days of a newly issued corrected decision.

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Respectfully submitted,



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Dated: April 2, 2014

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of April, 2014, I caused a copy of the foregoing Reply to Motion for Extension of Time to File Petitions for Reconsideration to be served by email and U.S. Mail upon:

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