

EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

E I DUPONT DE NEMOURS AND COMPANY)
Complainant,)
v.)
CSX TRANSPORTATION, INC.)
Defendant)

224736 224737
Docket Nos NOR 42099, 42100
and 42101 - 224738

JOINT MOTION TO DEFER PROCEDURAL SCHEDULE

Complainant, E I du Pont de Nemours and Company ("DuPont") and defendant, CSX Transportation, Inc. ("CSXT"), hereby jointly request that the Board defer for 14 days the procedural schedule that it adopted in the above-captioned proceedings by decision served on February 4, 2009. This would make briefs due on April 17, 2009 and reply briefs due on May 7, 2009. **The parties request expedited consideration of this Motion due to the very short time period before briefs are due under the procedural schedule.**

On its own motion, in a decision served on November 21, 2008, the Board reopened these proceedings, to address the effect of a change to the Revenue Shortfall Allocation Method ("RSAM"). The Board did not adopt a procedural schedule in that decision because it still needed to conclude a separate proceeding to obtain information to properly calculate the effect of state taxes upon the RSAM. In the January 27, 2009 decision, however, the Board, upon reconsideration, determined that it is not necessary to delay these proceedings, and issued a procedural schedule that called for the simultaneous filing of briefs on February 17, 2009 and reply briefs on March 9, 2009.

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On November 10, 2008, DuPont filed a stand-alone cost rate complaint against CSXT in Docket No. 42112 that encompasses 99 movements of 38 commodities. That case is currently in mediation and the mediation period has been extended at the request of the parties. Because the scope of this mediation has the potential to encompass the broad business relationship between DuPont and CSXT, which could include the movements at issue in these proceedings, DuPont and CSXT jointly filed a motion on January 30, 2009 to defer the procedural schedule by 45 days in order to focus their efforts upon mediating their much larger dispute in Docket No. 42112. The Board granted that motion in the February 4, 2009 decision.

Mediation of the large rate case in Docket No. 42112 is still on-going. Because the parties and their counsel have been and continue to be fully engaged in the mediation process in Docket No. 42112, they jointly ask the Board to defer the procedural schedule in Docket Nos. 42099, 42100 and 42101 for an additional 14 days. This will permit the parties to focus their efforts upon concluding their mediation of this much larger dispute between them, and potentially avoid the need for any further evidentiary filings in this proceeding.

Respectfully submitted,



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