

SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.  
WASHINGTON, D. C. 20036-3000

WILLIAM L. SLOVER  
C. MICHAEL LOFTUS  
DONALD G. AVERY  
JOHN H. LE SEUR  
KELVIN J. DOWD  
ROBERT D. ROSENBERG  
CHRISTOPHER A. MILLS  
FRANK J. PERGOLIZZI  
ANDREW B. KOLESAR III  
PETER A. PFOHL  
DANIEL M. JAFFE  
KAREN HASSELL HERREN  
KENDRA A. ERICSON

January 9, 2004



TELEPHONE:  
(202) 347-7170

FAX:  
(202) 347-3619

WRITER'S E-MAIL:

cam@sloverandloftus.com

VIA HAND DELIVERY

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 711  
Washington, D.C. 20423

209821

ENTERED  
Office of Proceedings

JAN 12 2004

Part of  
Public Record

Re: Docket No. 41191 (Sub-No. 1), West Texas Utilities Company  
v. The Burlington Northern and Santa Fe Railway Company

Dear Secretary Williams:

Enclosed for filing in the referenced proceeding please find an original and ten copies of Complainant AEP Texas North Company's ("AEP Texas") Petition to Modify Procedural Schedule. Because this Petition is being filed less than three weeks before Opening Evidence is due under the present schedule, AEP Texas requests that the Board give this filing **EXPEDITED CONSIDERATION**. BNSF has authorized AEP Texas to represent that BNSF does not object to the proposed revisions to the schedule.

An additional copy of this pleading also is enclosed. Please indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your prompt attention to this matter.

Sincerely,

Christopher A. Mills

CAM:dmb  
Enclosures

cc: David M. Konschnik  
Counsel for BNSF

**EXPEDITED CONSIDERATION REQUESTED**

209821

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



AEP TEXAS NORTH COMPANY )

Complainant, )

v. )

THE BURLINGTON NORTHERN AND )  
SANTA FE RAILWAY COMPANY )

Defendant. )

Docket No. 41191 (Sub-No.1)

ENTERED  
Office of Proceedings

JAN 12 2004

Part of  
Public Record

**PETITION TO MODIFY PROCEDURAL SCHEDULE**

Complainant AEP Texas North Company ("AEP Texas") hereby requests that the Board modify the remainder of the procedural schedule for this case, as established in the Board's Decision served September 26, 2003, by extending all due dates (and the staff-supervised technical conference) by approximately five weeks. The proposed modifications are as follows:

	<u>Present Schedule</u>	<u>Proposed Schedule</u>
Opening evidence due	January 27, 2004	March 1, 2004
Staff-supervised technical conference	February 24, 2004	March 29, 2004
Reply evidence due	April 20, 2004	May 24, 2004
Rebuttal evidence due	June 1, 2004	July 6, 2004

Modification of the schedule is necessary to enable AEP Texas to prepare and submit a complete SAC evidentiary presentation on Opening. The parties have cooperated (with the Board's assistance) in completing discovery in this case without the

---

need to seek an extension of the discovery cut-off date, and without the need for any motions to compel other than *pro forma* motions involving the production of confidential documents. Nonetheless, BNSF has produced a very large volume of data to AEP Texas, and considerable follow-up has been required to address and resolve various issues and clarifications related to the data.

AEP Texas is mindful of the Board's recent admonitions that a complainant in a rate case must put forward its best case on Opening, and avoid making substantial changes in its SAC presentation on Rebuttal. It is with this admonition in mind that AEP Texas has concluded that it requires the additional time requested herein to prepare complete and thorough Opening Evidence on SAC matters.

BNSF has authorized AEP Texas to represent that BNSF does not object to the revisions to the procedural schedule proposed herein.

Respectfully submitted,

AEP TEXAS NORTH COMPANY  
1 Riverside Plaza  
Columbus, OH 43215

By: Timothy P. Stanley, Director  
Transportation and Marketing  
David M. Cohen, Senior Counsel  
155 West Nationwide Boulevard  
Suite 300  
Columbus, OH 43215

OF COUNSEL:

Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

Dated: January 9, 2004

William L. Slover  
Kelvin J. Dowd  
Christopher A. Mills  
Frank J. Pergolizzi  
Daniel M. Jaffe  
Slover & Loftus  
1224 Seventeenth Street N.W.  
Washington, D.C. 20036  
(202) 347-7170

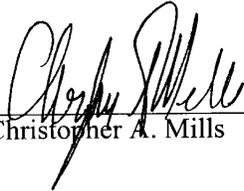


Attorneys & Practitioners

CERTIFICATE OF SERVICE

I hereby certify that on this 9<sup>th</sup> day of January, 2004, I caused a copy of the foregoing Petition to Modify Procedural Schedule to be served by hand delivery on counsel for BNSF, as follows:

Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
April A. Oliver  
Steptoe & Johnson, L.L.P.  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036-1795

  
\_\_\_\_\_  
Christopher A. Mills