

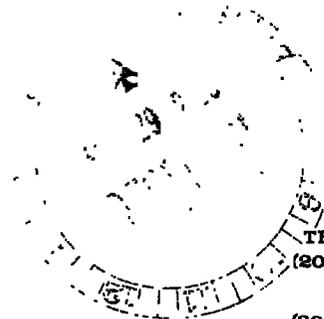
SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
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
STEPHANIE P. LYONS
JOSHUA M. HOFFMAN

OF COUNSEL
DONALD G. AVERY



TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:

jhl@sloverandloftus.com

August 29, 2008

VIA HAND DELIVERY

223475

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

AUG 29 2008

Part of
Public Record

Re: STB Docket No. 42105, *Dairyland Power
Cooperative v. Union Pacific Railroad Company*

Dear Ms. Quinlan:

Enclosed for filing in the above-referenced proceeding, please find an original and ten (10) copies of (1) Dairyland's Motion to Compel Discovery and (2) Dairyland's Motion to Amend the Procedural Schedule and to Set a Due Date for UP's Response to Dairyland's Motion to Compel Discovery.

We have included an extra copy of each of these filings. Please indicate receipt by time-stamping this copy and returning them with our messenger.

Sincerely,

John H. LeScur

Enclosures
cc: UP Counsel

EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



DAIRYLAND POWER COOPERATIVE)

Complainant,)

v.)

UNION PACIFIC RAILROAD COMPANY)

Defendant.)

Docket No. 42105

223475

ENTERED
Office of Proceedings

AUG 29 2008

MOTION TO AMEND THE PROCEDURAL SCHEDULE AND TO SET A DUE DATE FOR UP'S RESPONSE TO DAIRYLAND'S MOTION TO COMPEL DISCOVERY

OF COUNSEL:

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

John H. LeSeur
Frank J. Pergolizzi
Peter A. Pfohl
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: August 29, 2008

Attorneys for Dairyland Power
Cooperative

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

| | | |
|--------------------------------|---|------------------|
| DAIRYLAND POWER COOPERATIVE |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | Docket No. 42105 |
| |) | |
| UNION PACIFIC RAILROAD COMPANY |) | |
| |) | |
| Defendant. |) | |

**MOTION TO AMEND THE PROCEDURAL SCHEDULE
AND TO SET A DUE DATE FOR UP'S RESPONSE TO
DAIRYLAND'S MOTION TO COMPEL DISCOVERY**

Pursuant to 49 C.F.R. §§ 1104.7(b) and 1115.5(a), Complainant Dairyland Power Cooperative ("Dairyland") files this Motion to Amend Procedural Schedule and to Set a Due Date for UP's Response to Dairyland's Motion to Compel Discovery and in support hereof states as follows:

(1) In its decision served in this proceeding on July 29, 2008 ("July Decision"). the Board issued the following procedural schedule to apply in this proceeding:

| | |
|--------------------|----------------------------------|
| August 5, 2008 | Discovery Begins |
| September 12, 2008 | End of Discovery |
| October 14, 2008 | Dairyland Opening Statement Due |
| November 12, 2008 | UP Reply Statement Due |
| December 1, 2008 | Dairyland Rebuttal Statement Due |

(2) Pursuant to the procedural schedule, on August 5, 2008 Dairyland served discovery requests on defendant Union Pacific Railroad Company ("UP"). In its

response (“Response”), dated August 19, 2008, UP has objected to all of Dairyland’s requested discovery. Today, August 29, 2008, Dairyland is filing a Motion to Compel Discovery.

(3) In light of UP’s actions, discovery cannot be completed by the September 12, 2008 cut-off date established in the July Decision. Accordingly, Dairyland asks the Board to amend the procedural schedule by eliminating the September 12, 2008 date as the “End of Discovery.” Dairyland suggests that the Board permit the parties to propose a new “End of Discovery” date following the Board’s ruling on Dairyland’s Motion to Compel Discovery.

(4) Under the Board’s rules, Dairyland had ten days following receipt of UP’s interrogatory responses to file a motion to compel as to those requests. 49 C.F.R. §1114.31. UP now has twenty days to respond to Dairyland’s Motion to Compel Discovery, absent a Board order directing an earlier response date. Id. at §1104.13. Dairyland requests that the Board direct UP to respond to Dairyland’s Motion to Compel Discovery within ten days, i.e. by September 8, 2008.

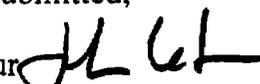
(5) Dairyland reserves the right to seek additional changes in the procedural schedule, if necessary, following the Board’s ruling on Dairyland’s Motion to Compel.

OF COUNSEL:

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

Dated: August 29, 2008

Respectfully submitted,

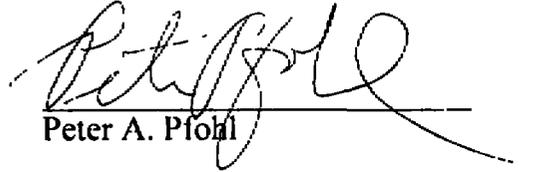
John H. LeSeur 
Frank J. Pergolizzi
Peter A. Pfohl
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys for Dairyland Power
Cooperative

CERTIFICATE OF SERVICE

I hereby certify that this 29th day of August, 2008, I served a copy of Dairyland's Motion to Amend Procedural Schedule and to Set a Due Date for UP's Response to Dairyland's Motion to Compel Discovery by hand delivery on designated outside counsel for UP, as follows:

Linda J. Morgan
Michael L. Rosenthal
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004



Peter A. Pfohl