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November 17, 2025
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Public Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

EVERGY, INC.,	)	
EVERGY METRO, INC. and	)	
EVERGY KANSAS CENTRAL, INC.	)	
	)	
Complainants,	)	
	)	
v.	)	Docket No. NOR 42180
	)	
BNSF RAILWAY COMPANY	)	
	)	
Defendant.	)	
	)	

COMPLAINANTS' MOTION TO MODIFY PROCEDURAL SCHEDULE

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Dated: November 17, 2025

*Attorneys for Evergy, Inc.,
Evergy Metro, Inc. and
Evergy Kansas Central, Inc.*

	)	
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	)	
Defendant.	)	
	)	

Complainants Evergy, Inc., Evergy Metro, Inc. and Evergy Kansas Central, Inc. (collectively “Evergy”), hereby submit this Motion to Modify Procedural Schedule (“Motion”) in the above-captioned proceeding. Evergy requests that the Surface Transportation Board (“Board”) issue an order modifying the schedule for: (1) Complainants’ Rebuttal Evidence; and (2) the parties’ Simultaneous Final Briefs. Evergy has sought BNSF Railway Company’s (“BNSF”) consent to this Motion, but BNSF has declined to provide such consent.

	Pre-Shutdown Schedule	Interval (days)
Evergy Opening	6/25/2025	N/A
BNSF Reply	10/23/2025	120
Evergy Rebutal	12/8/2025	46
Briefs	1/9/2026	32

As a result of the extended shutdown, however, BNSF will have had 148 days in which to prepare its Reply, an extension of twenty-eight days or roughly 23% more time than the anticipated Reply period.

On November 14, 2025, the Board issued a decision, *sua sponte*, modifying the schedule in this case. In that November 14 Decision, the Board extended the due date for Evergy's Rebuttal Evidence to January 8, 2026 and the Board set February 10, 2026 as the due date for simultaneous Final Briefs. The Board's selection of January 8, 2026 as the due date for Rebuttal Evidence represents only a three-day extension relative to the pre-existing forty-six-day interval for Rebuttal (*i.e.*, January 8, 2026 is forty-nine days after November 20, 2025).

Evergy respectfully submits that the Board's selection of January 8, 2026 as the due date for Rebuttal works a substantial hardship on Evergy relative to the benefit that BNSF has received through the extended government shutdown, both in terms of: (1) the extra twenty-eight days that BNSF obtained through the shutdown itself; and (2) the overlap that would exist between Evergy's Rebuttal-preparation period and Thanksgiving, Christmas, and New Years' Day. Under the November 14 Decision, BNSF will have had twenty-eight extra days in which to prepare its Reply, but Evergy would have only three extra days to prepare its Rebuttal.

Shortly after the outset of the government shutdown, Evergy proposed to BNSF that the parties agree upon a one-for-one matching of due-date extensions for Reply and Rebuttal Evidence. Significantly, however, Evergy made that proposal at a time at which it had no reason to believe that the government shutdown would continue for forty-three days and would become the longest government shutdown in United States history. In any event, BNSF declined to agree with Evergy's proposal, instead suggesting that the "the duration of the shutdown remains uncertain and it is therefore unclear how any contingency plan at this stage with specific date

intervals might intersect with holiday schedules or other procedural considerations.” Exhibit No. 1 hereto. BNSF concluded its response by commenting that “it is best to monitor developments before stipulating to adjustments to the procedural schedule.” *Id.*

Given the asymmetric impact of the government shutdown on the parties, and given BNSF’s own recognition of the importance of considering how “specific date intervals might intersect with holiday schedules,” Evergy proposes an extension in its Rebuttal period equivalent to one-half of the extension that BNSF received in its Reply period; namely, fourteen days (plus one day to account for the MLK federal holiday), with the following resulting deadlines:

	Evergy's Proposed Schedule	Interval (days)
Evergy Opening	6/25/2025	N/A
BNSF Reply	11/20/2025	148
Evergy Rebutal	1/20/2026	61
Briefs	2/23/2026	34

Evergy respectfully submits that a January 20, 2026 Rebuttal deadline constitutes a reasonable and measured compromise under the circumstances. This new deadline would not unduly delay this proceeding and would not work any meaningful hardship upon Defendant BNSF, which itself previously requested substantial delay in this proceeding. *See, e.g.*, BNSF September 27, 2024 Motion to Compel at 24 (“The Board should grant BNSF no less than six months to prepare its reply evidence following Evergy’s disclosure of its damages information and allow ample time for discovery on the methodologies and assumptions used, including any follow on requests necessitated by the information that Evergy ultimately produces.”).

Finally, Evergy has proposed a thirty-four day interval for submitting Final Briefs only because application of the pre-existing thirty-two day interval would fall on a Saturday.

CONCLUSION

For all of the foregoing reasons, Evergy respectfully requests that the Board modify the procedural schedule in this case as set forth herein.

Respectfully submitted,

By: /s/ Kelvin J. Dowd
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Dated: November 17, 2025

*Attorneys for Evergy, Inc.,
Evergy Metro, Inc. and
Evergy Kansas Central, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that this 17th day of November 2025, I have caused copies of the foregoing to be served electronically upon counsel for Defendant BNSF Railway Company.

/s/ Andrew B. Kolesar III
Andrew B. Kolesar III

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Exhibit No. 1
Steptoe

October 20, 2025

By Email

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**Re: *Evergy, Inc., et al. v. BNSF Railway Company,*
STB Docket NOR 42180**

Dear Kelvin:

Thank you for your October 13, 2025 letter regarding the potential impact of the ongoing federal government shutdown on the procedural schedule in this matter. We appreciate your foresight in considering potential scenarios and understand the fairness concerns you have outlined.

At present, the duration of the shutdown remains uncertain and it is therefore unclear how any contingency plan at this stage with specific date intervals might intersect with holiday schedules or other procedural considerations. For these reasons, we believe it is best to monitor developments before stipulating to adjustments to the procedural schedule.

Should the shutdown result in a delay to BNSF's Reply Evidence filing, we are of course willing to discuss potential modifications to subsequent deadlines at that time, with the aim of ensuring that both parties have a reasonable and fair opportunity to prepare their respective submissions.

Sincerely,

/s/ Timothy J. Strafford
Timothy J. Strafford

cc: Alexander Wolf
Tara Woods