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SERVICE DATE - OCTOBER 26, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 41191 (Sub-No. 1)

AEP TEXAS NORTH COMPANY

v.

BNSF RAILWAY COMPANY

Decided: October 25, 2011

This decision grants the request of AEP Texas North Company (AEP Texas) to dismiss its complaint against BNSF Railway Company (BNSF) with prejudice.

AEP Texas challenged the reasonableness of rates charged by BNSF to transport coal from mine origins in the Powder River Basin of Wyoming to the Oklaunion Generating Station near Vernon, Tex. In a decision served September 10, 2007, the Board determined that AEP Texas had failed to show that the rates were unreasonable. Both parties petitioned the Board for reconsideration. AEP Texas sought reconsideration of, among other things, the Board's previously published cost-of-capital findings for the railroad industry as applied in this rate case. In a decision served on May 15, 2009, the Board reaffirmed its use of the cost-of-capital figures and found that the challenged rates still had not been shown to be unreasonable. AEP Texas appealed this decision to the United States Court of Appeals for the District of Columbia, which vacated the Board's decision, in part, and remanded to the Board to reassess the "decisionmaking for the 2005 cost of equity estimate." AEP Tex. N. Co. v. STB, 609 F.3d 432, 444 (D.C. Cir. 2010).

On October 19, 2011, AEP Texas filed a petition to dismiss with prejudice its complaint against BNSF, stating that the parties have reached a voluntary settlement on all matters at issue in this proceeding. AEP Texas's petition will be granted, and this proceeding will be discontinued.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

It is ordered:

1. AEP Texas's petition is granted. The complaint is dismissed with prejudice, and this proceeding is discontinued.

2. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Office of Proceedings.