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SERVICE DATE – LATE RELEASE MARCH 16, 2016

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42142

CONSUMERS ENERGY COMPANY

v.

CSX TRANSPORTATION, INC.

Decided: March 16, 2016

On January 13, 2015, Consumers Energy Company (Consumers) filed a complaint challenging the reasonableness of rates established by CSX Transportation, Inc. (CSXT) for unit train coal transportation service in shipper-supplied rail cars to Consumers' generating station near West Olive, Mich., from CSXT's established railroad interchange with BNSF Railway Company in the vicinity of Chicago, Ill. Consumers alleges that CSXT possesses market dominance over the traffic and that CSXT's rates are unreasonable under both the stand-alone cost constraint and the revenue adequacy constraint. CSXT filed its answer to the complaint on February 2, 2015.

On June 23, 2015, Board staff held a conference with the parties' attorneys and consultants to discuss procedures for the format of evidence to be submitted for the market dominance inquiry and the stand-alone cost claim in this case. In a decision served on July 15, 2015 (July 2015 Decision), the Board adopted 13 general procedures as well as specific procedures for the market dominance inquiry and the stand-alone cost claim.

Pursuant to the procedural schedule as modified by a decision served on September 10, 2015, CSXT filed its reply evidence (Reply) on March 7, 2016. On March 14, 2016, Consumers filed a petition for technical conference, alleging that CSXT's Reply failed to comply with the July 2015 Decision. In its petition, Consumers identifies 164 alleged instances of CSXT's failure to comply with many of the 13 rules set forth in the July 2015 Decision, noting that the list is not comprehensive. Consumers states that it would not object if the Board were to strike CSXT's non-compliant Reply or require CSXT to re-file it in a format that conforms to the July 2015 Decision. Should the Board not pursue either of those alternatives, however, Consumers argues that a technical conference is needed so that Board staff can advise Consumers as to how its rebuttal evidence should be organized.

In order for the Board to promptly consider Consumers' petition, the Board will direct CSXT to file a response by March 21, 2016.

It is ordered:

1. CSXT is directed to file a response to Consumers' petition for technical conference by March 21, 2016.

2. This decision is effective on its service date.

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