

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42070

DUKE ENERGY CORPORATION

v.

CSX TRANSPORTATION, INC.

Decided: August 11, 2003

By complaint filed on December 19, 2001, Duke Energy Corporation (Duke) challenges the reasonableness of common carriage rates charged by CSX Transportation, Inc. (CSXT) for trainload movements of coal from mine origins in Virginia, West Virginia, and Kentucky to Duke's Cliffside, Riverbend, and Lee electric generating facilities, located, respectively, at Brice and Riverbend, NC, and Pelzer, SC. Duke alleges that CSXT possesses market dominance over the traffic and requests that maximum reasonable rates be prescribed along with other relief. The parties filed opening evidence on May 24, 2002; reply evidence on September 20, 2002; rebuttal evidence on November 12, 2002; and briefs on April 14, 2003.

In a letter also filed on April 14, 2003, Duke requests that an oral argument be held in this proceeding to provide an opportunity for the Board to explore issues of particular interest. Duke's request is reasonable and will be granted. An oral argument to discuss the issues raised in this proceeding will be held on Wednesday, September 10, 2003, beginning at 10:00 a.m., in the Surface Transportation Board Hearing Room (Room 760), at 1925 K Street, N.W., Washington, D.C.

No additional written comments may be filed, as an extensive written record has already been developed in this proceeding. Each party is therefore encouraged to use its oral argument time to call attention to the points it believes are particularly important. The purpose of oral argument is not to restate the written arguments previously made, but to summarize and emphasize the key points of a party's case, and provide an opportunity for questions that the Board may have regarding any issue in the proceeding.

The parties in this case will each have 45 minutes of argument time. Duke will open and may reserve part of its time for rebuttal if it so chooses. Each party must provide the full name and title of its speaker to the Board, together with a written summary (not to exceed 3 pages) of the specific points it wishes to discuss at the oral argument, as soon as possible, but no later than August 27, 2003.

If a party wishes to enhance its argument by using projector-adaptable visual displays and/or handouts, it may do so. Staff will be available to demonstrate the Hearing Room's projection system on Tuesday, September 9, 2003, from 2:00 p.m. to 4:00 p.m. Please call (202) 565-1709 to make arrangements.

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

It is ordered:

1. Duke's request for an oral argument is granted.
2. Oral argument in this proceeding will be held on Wednesday, September 10, 2003, beginning at 10:00 a.m., in the Surface Transportation Board Hearing Room (Room 760), at 1925 K Street, N.W., Washington, D.C.
3. Each party must provide the information specified above in writing by August 27, 2003.
4. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary