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SERVICE DATE – LATE RELEASE OCTOBER 14, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42070

DUKE ENERGY CORPORATION

v.

CSX TRANSPORTATION, INC.

STB Docket No. 42072

CAROLINA POWER & LIGHT COMPANY

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Decided: October 14, 2003

While the Board is committed to resolving maximum rate cases as expeditiously as possible, the Board has concluded that it is unable to reach a final decision on the current record in these cases, as the records are incomplete in a critical respect. In particular, the records do not allow the Board to determine the costs and revenues associated with rerouting traffic that would not be local to the stand-alone railroads hypothesized in the cases. Therefore, the records will be reopened for the sole purpose of affording the parties an opportunity to present needed evidence regarding rerouted traffic to complete the records.<sup>1</sup> At a minimum, the parties are directed to quantify the revenues and costs (including both operating costs and, if applicable, investment costs) of the stand-alone railroads attributable to the rerouting of this traffic.

In order to reach a final decision with the least possible delay, each party in STB Docket No. 42072 should submit this supplemental evidence by Monday, November 24, 2003. Each party in STB Docket No. 42072 may submit a response to the other party's supplemental evidence by Tuesday, December 2, 2003.

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<sup>1</sup> On October 10, 2003, the Board issued a similar decision in Duke Energy Corporation v. Norfolk Southern Railway Company, STB Docket No. 42069.

Each party in STB Docket No. 42070 should submit this supplemental evidence by Monday, January 5, 2004. Each party in STB Docket No. 42070 may submit a response to the other party's supplemental evidence by Monday, January 12, 2004. The limited reopening of the records will be construed by the Board as tolling the statutory time period for the issuance of a Board decision in each proceeding.

In light of the limited reopening of the record in STB Docket No. 42072, the oral argument in that proceeding that had been scheduled for October 29, 2003, will be rescheduled to Wednesday, November 19, 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.

It is ordered:

1. In STB Docket No. 42072, the parties shall submit the supplemental evidence described above by November 24, 2003. Each party may reply to the other's supplemental evidentiary submission by December 2, 2003. The oral argument in this proceeding will be held on November 19, 2003. The Board will issue its decision in STB Docket No. 42072 by December 23, 2003.
2. In STB Docket No. 42070, the parties shall submit the supplemental evidence described above by January 5, 2004. Each party may reply to the other's supplemental evidentiary submission by January 12, 2004. The Board will issue its decision in STB Docket No. 42070 by February 4, 2004.
3. This decision is effective on its date of service.

By the Board, Chairman Nober.

Vernon A. Williams  
Secretary