

SERVICE DATE - MAY 30, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42072

CAROLINA POWER & LIGHT COMPANY

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Decided: May 29, 2002

In a verified complaint filed and served on defendant Norfolk Southern Railway Company (NS) on February 1, 2002, Carolina Power & Light Company (CP&L) alleges that the rates and other terms for unit train coal transportation to be assessed by NS on complainant's movements of coal from various origins in West Virginia, Kentucky, and Virginia to CP&L's Roxboro electrical generating facility in Hyco, NC, and Mayo electrical generating facility in Mayo Creek, NC, will exceed a maximum reasonable level.<sup>1</sup> CP&L alleges that NS possesses market dominance over the traffic and requests that maximum reasonable rates be prescribed along with other relief.

In a decision served on March 12, 2002, granting a joint motion for a protective order, the Board established a procedural schedule. Under this schedule, opening statements are due to the Board on June 3, 2002, reply statements on August 30, 2002, and rebuttal statements on September 30, 2002. On May 29, 2002, CP&L filed a request for a one-week extension of these deadlines.<sup>2</sup> CP&L states that NS has recently provided supplemental traffic and revenue data to amend incomplete records it had previously produced, and CP&L needs time to evaluate the additional data. CP&L states that the request for an extension of time is made with the knowledge and consent of NS. The request is reasonable. Accordingly, the extension request will be granted.

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<sup>1</sup> The service was provided by NS under a rail transportation contract that expired on March 31, 2002. As of April 1, 2002, NS will transport coal to the Mayo and Roxboro generating stations using common carrier transportation rates per net ton for trainload shipments as outlined in a January 29, 2002 letter from NS to CP&L.

<sup>2</sup> CP&L requests waiver of the requirement of 49 CFR 1104.7(b) that a request for extension must be filed not less than 10 days before the due date.

It is ordered:

1. CP&L's requests for waiver of the 10-day rule in 49 CFR 1104.7(b) and for an extension of the procedural schedule are granted.

2. The procedural schedule in this proceeding is amended so that the due dates are as follows:

June 10, 2002	Opening statements due.
September 6, 2002	Reply statements due.
October 7, 2002	Rebuttal statements due.

3. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary