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SERVICE DATE - LATE RELEASE NOVEMBER 14, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42072

CAROLINA POWER & LIGHT COMPANY  
v.  
NORFOLK SOUTHERN RAILWAY COMPANY

Decided: November 14, 2003

The Surface Transportation Board will hold an oral argument on Wednesday, November 19, 2003, at 10:00 a.m., in Room 760, the Board's Hearing Room, on the 7th floor at the Board's headquarters in the Mercury Building, 1925 K Street, N.W., Washington, DC. Participation is limited to the parties' representatives, as set out below. At issue is Carolina Power & Light Company's (CP&L) complaint challenging the reasonableness of the rates charged by Norfolk Southern Railway Company (NS) for movements of coal from various mine origins in Virginia, West Virginia, and Kentucky to CP&L's Roxboro and Mayo electricity generating facilities in North Carolina. CP&L has asked the Board to prescribe the maximum reasonable rates that NS may charge for this traffic.

**Instructions for Attendance at Hearing**

The Board requests that all persons attending the oral argument use the Mercury Building's main entrance at 1925 K Street (on the northeast corner of the intersection of 20th and K Streets). There will be no reserved seating. Please plan to arrive early enough to be seated no later than 9:45 a.m. For security reasons, all persons should be prepared to produce photo identification (such as a driver's license), pass through a metal detector, and submit to an inspection of all briefcases, handbags, and any other bags. Visitors must be cleared through security in the Board's Suite 100 (on the 1st Floor, at the top of the ramp to the left of the main lobby) prior to being escorted to the hearing room.

Quiet laptops and tape recorders may be brought into the hearing room, but absolutely no provision will be made for the connection of personal computers to Board telephone lines. Cellular telephone use is not permitted in the hearing room, or in the rear anteroom. Cellular phones may only be used outside the hearing room.

The Board's hearing room does comply with the Americans With Disabilities Act, and persons needing such accommodations should contact Beverly Ledbetter in the Board's Section of Facilities Management at (202) 565-1709, by the close of business on Tuesday, November 18, 2003.

**Schedule of Appearances**

In response to the Board's decisions scheduling the oral argument, the parties provided the names of their respective speakers, together with written summaries of the specific points to be raised at the oral argument. The speakers should be prepared to answer questions from the bench, particularly with respect to following areas:

1. whether, and to what extent factual issues regarding operating expenses and road property investment costs should be determined differently than such issues were determined in Duke Energy Corp. v. Norfolk Southern Ry., STB Docket No. 42069 (STB served Nov. 6 2003);
2. whether, and to what extent the proposed rerouting of traffic should be permitted in light of the decisions in Duke v. NS and Texas Municipal Power Agency v. Burlington Northern and Santa Fe Ry. Co., STB Docket No. 42056 (STB Served Mar. 25, 2003);
3. whether the operating plan submitted by each party is feasible; and
4. whether the Board should alter its current rate reduction methodology.

Each speaker will be allotted 45 minutes. Complainant will open and may reserve part of its time for rebuttal and has stated its intention to do so. The following speakers are scheduled to address the Board: for the complainant, CP&L, C. Michael Loftus; and for the defendant, NS, G. Paul Moates.

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

**It is ordered:**

1. Admittance to the Surface Transportation Board oral argument on November 19, 2003, will be based upon the conditions set forth above.
2. Time is allocated to the speakers as discussed above.

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

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary