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SERVICE DATE - LATE RELEASE DECEMBER 19, 1997

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASES/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 59

Decided: December 19, 1997

On December 10, 1997, Centerior Energy Corporation (CEC) filed a petition for leave to supplement its comments filed in this proceeding on October 21, 1997.¹ CEC indicates that CSX and NS² have recently entered into a settlement agreement with one of its coal suppliers and that the agreement allegedly has a serious, adverse impact on CEC. CEC asks us to grant the request and accept its supplemental comments into the record.

Applicants replied on December 15, 1997. Although applicants contend that CEC's supplemental comments are without merit and are based on a misunderstanding of the agreement, they do not oppose the request to file additional comments. If we grant CEC's petition, however, applicants request a 21-day period in which to file any rebuttal comments or evidence.

In correspondence (designated CEC-16) filed December 17, 1997, CEC opposes applicants' rebuttal request on the ground that applicants have already commented on the terms of the agreement. We will grant CEC's petition for leave to supplement its comments. Despite CEC's urging to the contrary, we will also allow applicants to file a rebuttal on or before December 30, 1997. This would give applicants until 11 days after the date of service of this decision, or 20 days after the filing date of CEC's petition, to respond.

¹ CEC designated the confidential, unredacted version of its petition as CEC-14, while the public, redacted version is designated as CEC-15. CEC tendered its supplemental comments with its petition.

² CSX refers to CSX Corporation and CSX Transportation, Inc. NS refers to Norfolk Southern Corporation and Norfolk Southern Railway Company. In this proceeding, CSX and NS seek approval and authorization under 49 U.S.C. 11323-25 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (Conrail); and (2) the division of Conrail's assets by and between CSX and NS. CSX and NS are referred to as applicants for the purposes of this decision.

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

It is ordered:

1. CEC's petition for leave to file supplemental comments is granted. The supplemental comments of CEC are accepted into the record.
2. Applicants' rebuttal comments or evidence will be due on December 30, 1997.
3. This decision is effective on its service date.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary