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SERVICE DATE - LATE RELEASE JANUARY 14, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 41191 (Sub-No. 1)

AEP TEXAS NORTH COMPANY

v.

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: January 14, 2005

By complaint filed and served on defendant The Burlington Northern and Santa Fe Railway Company (BNSF) on August 11, 2003, AEP Texas North Company (AEP Texas) alleges that the carrier's rates for the movement of coal from origins in the Powder River Basin of Wyoming to AEP Texas' Oklaunion generating station, located near Vernon, TX, are unreasonably high. AEP Texas alleges that BNSF possesses market dominance over the traffic and requests that maximum reasonable rates be prescribed along with other relief.

On November 8, 2004, AEP Texas filed a petition to supplement the record and a pleading containing supplemental evidence, which includes a revised Rail Traffic Controller (RTC) simulation showing how traffic would flow over the proposed stand-alone railroad. In its petition, AEP Texas asks that the Board allow BNSF approximately 4 weeks to respond to this new evidence.

On November 24, 2004, BNSF filed a reply asking the Board to deny the petition to supplement the record. The Board is not prepared to address AEP Texas' request and BNSF's motion at this time. However, to protect its interests, BNSF should submit a separate pleading responding to the supplemental evidence submitted by AEP Texas. That reply will be considered by the Board only if AEP Texas' petition to supplement the record is ultimately granted.

It is ordered:

1. BNSF's reply to AEP Texas' supplemental evidence is due by February 14, 2005.

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

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary