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SEC

SERVICE DATE - LATE RELEASE APRIL 25, 2003

SURFACE TRANSPORTATION BOARD

DECISION¹

STB Ex Parte No. 638

PROCEDURES TO EXPEDITE RESOLUTION OF RATE CHALLENGES TO BE
CONSIDERED UNDER THE STAND-ALONE COST METHODOLOGY

STB Docket No. 41185

ARIZONA PUBLIC SERVICE COMPANY AND PACIFICORP
v.
ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

STB Docket No. 42054

PPL MONTANA, LLC
v.
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

STB Docket No. 42056

TEXAS MUNICIPAL POWER AGENCY
v.
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

STB Docket No. 42057

PUBLIC SERVICE COMPANY OF COLORADO D/B/A XCEL ENERGY
v.
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

¹ These proceedings are not consolidated. A single decision is being issued for administrative convenience.

STB Docket No. 42058

ARIZONA ELECTRIC POWER COOPERATIVE, INC.
v.
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
AND UNION PACIFIC RAILROAD COMPANY

STB Docket No. 42059

NORTHERN STATES POWER COMPANY MINNESOTA
D/B/A XCEL ENERGY
v.
UNION PACIFIC RAILROAD COMPANY

STB Docket No. 42069

DUKE ENERGY CORPORATION
v.
NORFOLK SOUTHERN RAILWAY COMPANY

STB Docket No. 42070

DUKE ENERGY CORPORATION
v.
CSX TRANSPORTATION, INC.

STB Docket No. 42071

OTTER TAIL POWER COMPANY
v.
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

STB Docket No. 42072

CAROLINA POWER & LIGHT COMPANY
v.
NORFOLK SOUTHERN RAILWAY COMPANY

STB Docket No. 42077

ARIZONA PUBLIC SERVICE COMPANY AND PACIFICORP
v.
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: April 25, 2003

In its decision in STB Ex Parte No. 638 served on April 3, 2003 (the April 3 decision), the Board stated (at 9) that it would “review (and modify if necessary) existing protective orders in all pending [stand-alone cost (SAC)] cases to ensure that they comply with [the Board’s] expectations” regarding future submissions of confidential materials and prompt redaction of the pleadings for review by in-house personnel. Because of the Board’s policy favoring private resolution of matters, parties in the above-captioned SAC cases should review the existing protective orders governing these proceedings² and jointly propose any modifications needed to comply with the April 3 decision by May 9, 2003.³ If parties are unable to reach agreement on such modifications by that time, the Board will review the protective orders that are in dispute and revise them so as to impose appropriate modifications.

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

² A protective order imposed in a proceeding extends throughout the life of the case, including any appellate stages and subsequent requests to reopen either the record or the case. In light of this, it makes sense to review, and, if necessary modify, orders in the above-captioned cases now, even though these proceedings are at different stages and the evidentiary record has already closed in several of them.

³ If the existing protective order in a case already conforms to the Board’s expectations in the April 3 decision, the parties to that case should jointly so advise the Board by May 9, 2003.

It is ordered:

1. Parties to the above-captioned SAC proceedings should review and jointly propose any necessary modifications of the protective orders governing these proceedings by May 9, 2003.
2. This decision is effective on the service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary