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SERVICE DATE – AUGUST 23, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 693

ORAL ARGUMENT

Decided: August 20, 2010

The Surface Transportation Board will hold oral argument on Tuesday, September 28, 2010, at 9:30 a.m., in the Board's hearing room at the Board's headquarters located at 395 E Street, S.W., Washington, DC. The argument will address Arizona Electric Power Cooperative, Inc. v. BNSF Railway & Union Pacific Railroad, NOR 42113. The oral argument will be open for public observation, but only counsel for the parties will be permitted to present argument.

Arizona Electric Power Cooperative, Inc. (AEPCO), filed a complaint challenging the reasonableness of the rates established by BNSF Railway Company (BNSF) and Union Pacific Railroad Company (UP), for unit train coal transportation service from New Mexico and the northern portion of the Powder River Basin in Wyoming and Montana, to AEPCO's Apache Generating Station located near Cochise, Ariz. AEPCO requests that the Board prescribe reasonable rates and order reparations for past overcharges. BNSF and UP have answered the complaint, and the parties have submitted evidence and filed closing briefs.

AEPCO will have 30 minutes of argument time. UP and BNSF, collectively, will have 30 minutes of argument time. AEPCO will open and may reserve part of its time for rebuttal if it so chooses.

By September 21, 2010, the parties shall submit to the Board the name of the counsel who will be presenting argument and the name of the party counsel will be representing. AEPCO's filing shall also address the requested time reserved for rebuttal, if any. Absent a request by the Board, no additional written comments or other submissions may be filed in connection with this oral argument. Each party is encouraged to use its oral argument time to call attention to the points it believes are particularly important in this proceeding. The argument will be in the style of an appellate court. Parties should prepare a short oral statement and be prepared to answer questions from the Board. The purpose of oral argument is not to restate the written arguments previously presented or to present new evidence, but to summarize and emphasize the key points of a party's case, and provide an opportunity for questions that the Board may have regarding any issue in the proceeding.

Counsel for the parties shall check in with Board staff in the hearing room prior to the argument.

A video broadcast of the oral argument will be available via the Board's website at <http://www.stb.dot.gov>, under "Information Center"/"Webcast"/"Live Video" on the home page.

Instructions for Attendance at Hearing

The STB requests that all persons attending the hearing use the Patriots Plaza Building's main entrance at 395 E Street, S.W. (closest to the northeast corner of the intersection of 4th and E Streets). There will be no reserved seating, except for those scheduled to present oral arguments. The building will be open to the public at 7:00 a.m., and participants are encouraged to arrive early. There is no public parking in the building.

Upon arrival, check in at the 1st floor security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or Federal government identification); sign-in at the security desk; receive a hearing room pass (to be displayed at all times); submit to an inspection of all briefcases, handbags, etc.; then pass through a metal detector. Persons choosing to exit the building during the course of the hearing must surrender their hearing room passes to security personnel and will be subject to the above security procedures if they choose to re-enter the building. Hearing room passes likewise will be collected from those exiting the hearing upon its conclusion.

Laptops and recorders may be used in the hearing room, but no provision will be made for connecting personal computers to the Internet. Cellular telephone use is not permitted in the hearing room; cell phones may be used quietly in the corridor surrounding the hearing room, or in the building's main lobby.

The Board's hearing room complies with the Americans with Disabilities Act, and persons needing such accommodations should call (202) 245-0245, by the close of business on September 21, 2010.

For further information regarding the oral argument, contact Chris Oehrle at (202) 245-0375. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

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

It is ordered:

1. Oral argument in Arizona Electric Power Cooperative, Inc. v. BNSF Railway & Union Pacific Railroad, NOR 42113, will be held on Tuesday, September 28, 2010, at 9:30 a.m., in the Surface Transportation Board Hearing Room, at 395 E Street, S.W., Washington, DC, as described above.

2. By September 21, 2010, the parties shall submit to the Board the name of the counsel who will be presenting argument and the name of the party counsel will be representing. AEPCO's filing shall also address the requested time reserved for rebuttal, if any.

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

By the Board, Rachel D. Campbell, Director, Office of Proceedings.