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SEC

SERVICE DATE - APRIL 5, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42069

DUKE ENERGY CORPORATION

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Decided: April 4, 2002

By complaint filed and served on defendant Norfolk Southern Railway Company (NS) on December 19, 2001, Duke Energy Corporation (Duke Energy) alleges that the rates to be assessed on the movement of coal from origins in Virginia, West Virginia, and Kentucky to Duke Energy's Allen, Belews Creek, Buck, and Dan River electric generating facilities, located, respectively, at Belmont, Walnut Cove, Spencer, and Eden, NC, will exceed a maximum reasonable level. Duke Energy alleges that NS possesses market dominance over the traffic and requests that maximum reasonable rates be prescribed along with other relief. A decision that included both a protective order and a procedural schedule was served on February 5, 2002. Under the procedural schedule, opening statements are due on April 18, 2002, reply statements are due on July 17, 2002, and rebuttal statements are due on August 20, 2002.

By joint request filed on March 27, 2002, the parties seek an extension of the procedural schedule. They submit that a brief extension is necessary to enable them to complete discovery of information needed to develop variable and stand-alone cost evidence. Therefore, the parties request that the Board extend the due dates so that opening, reply, and rebuttal evidence would be due as follows:

May 24, 2002	Opening statements due.
August 15, 2002	Reply statements due.
September 23, 2002	Rebuttal statements due.

Good cause exists for granting the parties' request. Accordingly, the revised procedural schedule will be adopted.

It is ordered:

1. The joint request for a new procedural schedule is granted.

2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary