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SEC

SERVICE DATE – MAY 4, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42095

KANSAS CITY POWER & LIGHT COMPANY

v.

UNION PACIFIC RAILROAD COMPANY

Decided: May 3, 2007

By complaint filed on October 12, 2005, Kansas City Power & Light Company (KCPL) alleges that the rates charged by the Union Pacific Railroad Company (UP) for transportation of coal from origins in the Powder River Basin (PRB) of Wyoming to KCPL's Montrose Generating Station (located near Ladue, MO) are unreasonably high. UP answered on November 1, 2005.

In a decision served on July 27, 2006, the Board asked the parties to address as a threshold issue whether the Board has jurisdiction to entertain this rate complaint. The Board found that the parties had shown cause why the proceeding should not be dismissed by a decision served on March 29, 2007, and asked the parties to jointly file a procedural schedule.

On April 18, 2007, the parties filed a joint stipulation and procedural schedule. The parties stipulate that, if the Board has jurisdiction under 49 U.S.C. 10707(d)(1)(A) to regulate the challenged rates because the rates exceed 180% of variable cost, the maximum reasonable rates would be 180% of variable cost. The parties propose the following schedule for the submission of evidence:

May 18, 2007	Staff-supervised discovery conference
July 13, 2007	Opening evidence
August 10, 2007	Staff-supervised technical conference, if necessary
September 7, 2007	Reply evidence
October 12, 2007	Rebuttal evidence

The proposed schedule is consistent with 49 CFR 1111.8. However, given that there will be no Stand-Alone Cost evidence in this case and that the Board has held that it will not make movement-specific adjustments to calculate variable costs,¹ the proposed schedule is not

¹ Major Issues in Rail Rate Cases, STB Ex Parte No. 657 (Sub-No. 1), slip op. at 47-61 (STB served Oct. 30, 2006).

reasonable.² Calculating variable costs using unadjusted Uniform Rail Costing System (URCS) system-wide averages is a quick and administratively simple process. Thus, there is no discernible reason why it should take 6 months to resolve the operating characteristic inputs to the URCS model to determine the variable costs of the issue movements. Thus, the Board will adopt the following expedited schedule for this proceeding:

June 8, 2007	Joint submission of operating characteristics
July 9, 2007	Staff-supervised technical conference, if necessary
July 30, 2007	Opening evidence
August 20, 2007	Reply evidence

The parties' joint submission of operating characteristics should highlight any areas of disagreement and indicate whether the parties request a staff-supervised technical conference.

It is ordered:

1. The procedural schedule set forth above is adopted.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

² See Northern States Power Company Minnesota d/b/a Xcel Energy v. Union Pacific Railroad Company, STB Docket No. 42059 (STB served May 24, 2002) (adopting an expedited procedural schedule for rail rate dispute where the parties had stipulated that the maximum reasonable rate would be 180% of variable cost).