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SEC

SERVICE DATE - NOVEMBER 27, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34178

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION AND CEDAR  
AMERICAN RAIL HOLDINGS, INC. — CONTROL — IOWA, CHICAGO & EASTERN  
RAILROAD CORPORATION

Decision No. 6

Decided: November 26, 2002

In Decision No. 5 served on November 15, 2002, the Board rejected a late-filed notice of intent to participate in this proceeding filed by Muscatine Power and Water (MPW), and provided MPW an opportunity to participate by filing a petition for leave to intervene, accompanied by its actual comments, showing service on all parties of record, no later than 5:00 p.m., Friday, November 22, 2002. This decision addresses the petition for leave to intervene and request for designation as a party of record filed November 22, 2002, by MPW (MPW-2).<sup>1</sup> On November 22, 2002, MPW also filed with the Board its Comments and Request for Conditions (MPW-3).

In its petition, MPW states that it is the largest municipal electric utility in Iowa in terms of sales and generation, and that, in order to provide fuel for its generating facilities, it purchases substantial volumes of coal from the Buckskin Mine located in the Powder River Basin of Wyoming and transports the coal by railroad to its plants. MPW states that, because it ships substantial volumes of coal from the Powder River Basin, it has a serious interest in this proceeding, which may affect its competitive options for rail transportation service.

MPW explains that it was involved in negotiations with the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) to reach a private-sector resolution to its concerns about the proposed transaction. MPW states that its need to participate in the Board proceeding arose only after it was unexpectedly unable to reach an agreement with DM&E, which occurred after the filing deadline had

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<sup>1</sup> In support of its petition, MPW attached a Verified Statement of Connie R. Thede, Manager, Purchasing & Stores for MPW, explaining the circumstances that caused MPW to late-file its notice of intent to participate in this proceeding.

passed. At that time, in order to protect its interests, MPW promptly filed its notice of intent to participate, even though filed late, in order to make its concerns known to the Board and to seek regulatory relief.

Pursuant to 49 CFR 1112.4, intervention may be granted if it will not unduly disrupt the procedural schedule nor unduly broaden the issues raised in the proceeding. MPW will be granted leave to intervene; MPW has established a valid interest in the proceeding, and its intervention will not disrupt the procedural schedule or broaden the issues.

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

It is ordered:

1. MPW's request for leave to intervene and seek designation as a party of record is granted.
2. MPW will be added as a party of record on the Board's official service list for this proceeding.
3. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary