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SERVICE DATE – JULY 8, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42122

NRG POWER MARKETING LLC

v.

CSX TRANSPORTATION, INC.

Decided: July 7, 2010

This decision grants the request of NRG Power Marketing LLC (NRG) to dismiss its complaint with prejudice and to discontinue this proceeding.

By a complaint filed on May 18, 2010, NRG challenged the reasonableness of rates established by CSX Transportation, Inc. (CSXT), for the transportation of coal from Chicago, Ill., to 2 NRG coal-fired generating plants in western New York state. NRG alleged that CSXT possesses market dominance over the traffic and asked the Board to prescribe maximum reasonable rates using the Stand-Alone Cost test.

On May 25, 2010, NRG filed a petition for injunctive relief with the Board requesting that the Board enjoin CSXT from charging the disputed rates and that the Board instead impose an interim rate during the pendency of this proceeding. CSXT filed a reply on June 14, 2010.

Pursuant to 49 C.F.R. § 1109.4, the parties participated in mandatory non-binding mediation, which was facilitated by Board staff. On June 21, 2010, NRG and CSXT jointly filed a request that the Board refrain from ruling on NRG's petition for injunctive relief, as the parties were in the process of negotiating a formal settlement agreement. On June 30, 2010, NRG filed a motion to dismiss its complaint with prejudice and to discontinue the proceeding. In its motion, NRG states that it has reached a settlement with CSXT. NRG also states that it is withdrawing its petition for injunctive relief. NRG's motion to dismiss will be granted.

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

It is ordered:

1. NRG's motion is granted. The complaint is dismissed with prejudice, and this proceeding is discontinued.

2. This decision is effective on its service date.

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