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BY HAND

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: ***STB Docket No. 42069, Duke Energy Corporation v. Norfolk Southern Railway Company***

Dear Secretary Williams:

We write in response to the letter and "Comments" from Duke counsel to you dated January 29, 2003. See William L. Slover Letter to Secretary Williams (Jan. 29, 2003). NS wishes to correct errors in Mr. Slover's January 29 letter. On January 15, 2003 (not January 20, as Duke asserts), in direct response to Duke's Rebuttal accusation that NS had withheld third-quarter 2002 traffic data in order to understate 2002 traffic volumes, NS submitted to the Board data showing actual NS traffic volumes between the origins and destinations at issue in this case for the second half of 2002. Compare Letter from Moates and Hemmersbaugh to Secretary Williams (January 15, 2003) with Slover Letter and Comments to Secretary Williams (Jan. 29, 2003) (erroneously stating that NS made its submission on January 20). A week later, Duke counsel objected to NS' submission of this actual traffic data. See Slover Letter to Secretary Williams (Jan. 22, 2003). NS promptly responded, explaining that NS had submitted its actual traffic data to respond to Duke's unfounded allegation that NS had intentionally understated 2002 traffic volumes. See Moates et al letter to Secretary Williams (Jan. 24, 2002).

Subsequently, on January 29, Duke submitted for the Board's consideration a copy of a recent NS presentation to financial analysts concerning NS system traffic volumes for 2002, which Duke describes as "actual coal traffic data . . . for NS for 2002." Duke Comments at 2 (referencing Exhibit A). By submitting this material for the Board's consideration, Duke tacitly concedes that actual traffic data, where it exists, is better for purposes of SAC analysis than traffic volume forecasts. NS agrees, and does not object to the Board's consideration of the traffic data Duke submitted as Exhibit A to its January 29 submission, in conjunction with the specific O-D pair volume data NS submitted on January 15, 2003.

Like the SARR-specific actual traffic data NS submitted on January 15, the NS system-wide data Duke submitted last week further confirms that, contrary to Duke's Rebuttal accusation, use of actual traffic data for the second half of 2002 would strengthen NS' SAC presentation, and that Duke's SAC presentation significantly overstated actual 2002 volumes. Duke's January 29 submission shows that, over the entire NS system, overall coal volumes declined by five percent in 2002. See Duke Comments Exhibit A at 12 (Jan. 29, 2003). That overall decline masks a larger decline in NS' export coal traffic (20% volume drop in 2002) which, along with utility coal traffic, comprises most of the traffic that would move on Duke's SARR, the ACC railroad. See id. On the actual NS system, the substantial declines in Duke's (and other Central Appalachian-coal burning utilities') coal traffic and in export coal traffic in 2002 were mitigated by increases in coke and iron ore traffic volumes (traffic not included in Duke's SARR). Id.

Sincerely,

G. Paul Moates
Terrence M. Hynes
Ronald S. Flagg
Paul A. Hemmersbaugh

cc: Counsel for Complainant