

SERVICE DATE – LATE RELEASE AUGUST 11, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42128

SOUTH MISSISSIPPI ELECTRIC POWER ASSOCIATION

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Decided: August 11, 2011

This decision grants the motion of South Mississippi Electric Power Association (SMEPA) to withdraw its previously filed motion to compel discovery from Norfolk Southern Railway Company (NSR).

On December 28, 2010, SMEPA filed a complaint against defendant NSR challenging the reasonableness of rates for the transportation of coal to SMEPA's R.D. Morrow, Sr. Generating Station, near Richburg, Miss., from NSR-served mine origins and origin groups in five states, and from NSR-served docks in Mobile, Ala. On July 22, 2011, SMEPA filed its First Motion to Compel Discovery (motion to compel) from NSR. NSR filed its reply in opposition to SMEPA's motion to compel on August 1, 2011.

Subsequently, on August 3, 2011, SMEPA filed a motion to withdraw its motion to compel, stating that NSR's "objection now has been resolved" and that NSR "has produced data and documents that were the subject of SMEPA's Motion to Compel."¹ In its motion to withdraw, SMEPA also stated that it "has been authorized to represent that [NSR] concurs in the relief requested herein."

SMEPA's motion to withdraw its motion to compel will be granted without prejudice.

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

It is ordered:

1. SMEPA's motion to withdraw its motion to compel is granted without prejudice.

¹ Also on August 3, 2011, SMEPA filed a petition to modify the procedural schedule. NSR filed a reply on August 8, 2011. That petition will be addressed by a separate decision.

2. This decision is effective on its service date.

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