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SEC

SERVICE DATE – MAY 18, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42089

ALBANY & EASTERN RAILROAD COMPANY

v.

BNSF RAILWAY COMPANY

Decided: May 17, 2005

On November 12, 2004, Albany & Eastern Railroad Company (AERC) filed a complaint pursuant to 49 CFR 1108.7(a), to commence arbitration of a dispute with BNSF Railway Company (BNSF).¹ Under 49 CFR 1108.7(c), a defendant willing to enter into arbitration must, within 30 days of the date of a complaint, answer the complaint in writing. BNSF previously requested and was granted several extensions of time to file its answer to AERC's complaint. Subsequently, by decision served on May 5, 2005, the proceeding was held in abeyance pending further Board action.

By letter filed on May 11, 2005, AERC requests that the Board dismiss its complaint with prejudice. AERC states that the parties have resolved all issues raised in the complaint. AERC also states that counsel for BNSF has authorized it to state that BNSF supports the motion. Accordingly, AERC's complaint will be dismissed with prejudice and the proceeding will be discontinued.

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

It is ordered:

1. AERC's request to dismiss its complaint with prejudice is granted.
2. The proceeding is discontinued.
3. This decision is effective on the date of service.

¹ Effective January 20, 2005, The Burlington Northern and Santa Fe Railway Company changed its name to BNSF Railway Company.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary