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SEC

SERVICE DATE - LATE RELEASE JANUARY 14, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42091

ARIZONA PUBLIC SERVICE COMPANY & PACIFICORP

v.

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: January 13, 2005

On December 17, 2004, Arizona Public Service Company and PacifiCorp (jointly, "Arizona") filed a complaint in this proceeding challenging the reasonableness of the rates charged by The Burlington Northern and Santa Fe Railway Company (BNSF) for transportation of coal from the McKinley and Lee Ranch mines in New Mexico to Arizona's Cholla Electric Steam Generation Station near Joseph City, Arizona (Cholla). Arizona simultaneously asked to have this proceeding held in abeyance pending judicial review of the Board's decisions served on May 12, 2003, October 14, 2003, and December 13, 2004, in Docket No. 41185, Arizona Public Service Company and Pacificorp v. The Burlington Northern and Santa Fe Railway Company.

Arizona notes that both proceedings involve the rate established by BNSF for movements from the McKinley and Lee Ranch mines to Cholla conducted on or after May 22, 2003. Arizona states that, if it prevails in its judicial challenge to the Board's actions in Docket No. 41185, it might seek to withdraw its complaint in this docket. Thus, Arizona seeks to have its complaint in this docket held in abeyance pending judicial review in Docket No. 41185. In a reply filed on January 6, 2005, BNSF states that it does not oppose Arizona's request to hold this proceeding in abeyance.

The request to hold this proceeding in abeyance pending judicial review of the Board's decisions in Docket No. 41185 is reasonable and unopposed and will therefore be granted. Within 30 days after completion of judicial review, Arizona must notify the Board, whether it wishes to reactivate this proceeding or to have it dismissed. If Arizona chooses to reactivate the proceeding, the Board will appoint a mediator and set a procedural schedule at that time.

It is ordered:

1. This proceeding is held in abeyance pending completion of judicial review in Docket No. 41185.

2. Within 30 days after completion of judicial review in Docket No. 41185, Arizona must notify the Board whether it wishes to have the instant proceeding reactivated or dismissed.

3. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary