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SERVICE DATE - LATE RELEASE MARCH 16, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42051

WISCONSIN POWER AND LIGHT COMPANY

v.

UNION PACIFIC RAILROAD COMPANY

Decided: March 15, 2000

In a verified complaint filed, and served on defendant Union Pacific Railroad Company (UP), on December 30, 1999, Wisconsin Power and Light Company (WPL or complainant) alleges that rates to be assessed by UP to move complainant's unit trains of coal from origins in the Powder River Basin of Wyoming to WPL's electric generating facility at Sheboygan, WI, will exceed a maximum reasonable level.¹ Complainant alleges that UP possesses market dominance over the traffic and requests that maximum reasonable rates be prescribed along with related rules and service terms for the transportation. Complainant also requests an award of reparations.

In a decision served on January 31, 2000, a request by WPL (which was opposed by UP) for appointment of an Administrative Law Judge (ALJ) to resolve discovery disputes was denied without prejudice on the ground that there was no discovery dispute at that time. On February 11, 2000, UP filed a petition for subpoena duces tecum directed to WPL's consultant, L.E. Peabody & Associates, Inc. On February 18, 2000, WPL filed a motion to compel production of documents² and a reply in opposition to UP's petition for a subpoena.

In the interest of a prompt resolution, these matters, along with all subsequent discovery disputes, will be assigned to Judge Joseph Nancy of the Federal Energy Regulatory Commission (FERC). A copy of the pertinent record is being furnished to Judge Nancy, and the parties will be responsible for furnishing subsequent filings to the ALJ.

¹ The service was formerly provided by UP under a rail transportation contract that expired on December 31, 1999.

² In a letter filed on February 28, 2000, WPL states that the parties have reached agreement with respect to WPL's Document Request No. 31 and withdraws its motion to compel with respect to that request.

It is ordered:

1. UP's petition for subpoena duces tecum, filed February 11, 2000, and WPL's motion to compel, filed February 18, 2000, are assigned to Judge Joseph Nancy for resolution. Unless otherwise ordered, all subsequent discovery disputes in this proceeding are also assigned to Judge Nancy. A copy of all filings and documents, including this decision, will be sent to: Judge Joseph Nancy, FERC, Office of Administrative Law Judges, 888 1st Street, NE, Suite 11F, Washington, DC 20426. Judge Nancy may be reached at (202) 219-2508.

2. The parties will submit to Judge Nancy a copy of any further pleadings regarding the referred matters in addition to the copies required to be filed with the Board.

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

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary