

SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PROHL
DANIEL M. JAFFE
KAREN HASSELL HERREN

March 27, 2002

TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:

cam@sloverandloftus.com



BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Unit
1925 K Street, N.W.
Washington, D. C. 20423

Re: Docket No. 42070, Duke Energy Corporation
vs. CSX Transportation, Inc.

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and ten copies of the parties' Joint Petition for Extension of Procedural Schedule.

Because the present due date for opening evidence (April 18, 2002) is just over three weeks away, the parties respectfully request that the Board expedite its consideration of the enclosed Petition.

Thank you for your attention to this matter.

Sincerely,

Christopher A. Mills

ENTERED
Office of the Secretary
MAR 28 2002
Part of
Public Record

CAM/lma
Enclosures

cc: David M. Konschnik (Office of Proceedings)
G. Paul Moates, Esq. (Counsel for CSXT)

BEFORE THE
SURFACE TRANSPORTATION BOARD



DUKE ENERGY CORPORATION,
Complainant,

v.

CSX TRANSPORTATION, INC.
Defendant.

Docket No. 42070

ENTERED
Office of the Secretary

MAR 28 2002

Part of
Public Record

JOINT PETITION FOR
EXTENSION OF PROCEDURAL SCHEDULE

*** EXPEDITED ACTION REQUESTED ***

Complainant Duke Energy Corporation ("Duke") and Defendant CSX Transportation, Inc. ("CSXT") hereby jointly petition the Board to extend each of the due dates for opening, reply and rebuttal evidence as follows:

	<u>Present Due Date</u>	<u>Proposed Due Date</u>
Opening evidence	April 18, 2002	May 24, 2002
Reply evidence	July 17, 2002	August 15, 2002
Rebuttal evidence	August 20, 2002	September 23, 2002

A brief extension of the evidentiary due dates is necessary to enable the parties to complete discovery of information needed to develop variable and stand-alone costs in this case.

Despite the parties' efforts, they have been unable to complete discovery. In particular, CSXT has not yet completed its production of certain traffic and revenue data needed by Duke to design and configure its stand-alone railroad. Duke needs this information to be able to complete the preparation of its opening SAC evidence.¹ Both parties agree that an extension is also needed to complete discovery of information needed for their opening variable-cost presentations.

The parties have crafted the stipulated new evidentiary schedule to avoid conflicts with the procedural schedules in other pending rate cases. Under the parties' proposal, the new due date for rebuttal evidence (September 23, 2002) represents a relatively modest 34-day extension of the present rebuttal due date.

WHEREFORE, Duke and CSXT respectfully request that the Board extend the due dates for opening, reply and rebuttal evidence as follows: opening evidence to be due May 24, 2002; reply evidence to be due August 15, 2002; and rebuttal evidence to be due September 23, 2002.

¹ CSXT has filed a motion to compel discovery with respect to Duke's (and thus the SARR's) future traffic. The parties agree that CSXT's motion does not presently require a further extension of the evidentiary due dates. However, the parties also agree that this issue may need to be revisited depending on the timing and substance of the Board's ruling on CSXT's motion to compel (which could affect the preparation of CSXT's SAC reply evidence). Reply evidence otherwise would be due on August 15, 2002, under the revised schedule proposed herein.

Given the very short time (just over three weeks) remaining until the April 18, 2002 due date for opening evidence under the present procedural schedule, the parties request the Board to expedite its ruling on this Petition.

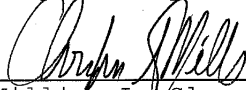


G. Paul Moates CAM
Terence M. Hynes
Vincent F. Prada
SIDLEY AUSTIN BROWN & WOOD
1501 K Street, N.W.
Washington, DC 20005
(202) 736-8000

Attorneys for Defendant

Dated: March 27, 2002

Respectfully submitted,



William L. Slover
Robert D. Rosenberg
Christopher A. Mills
Andrew B. Kolesar III
SLOVER & LOFTUS
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys for Complainant