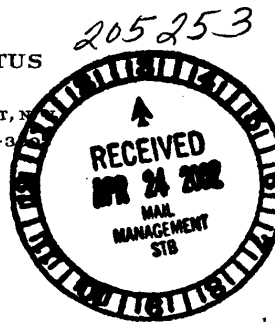


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April 24, 2002

BY HAND DELIVERY

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

ENTERED
Office of the Secretary
APR 25 2002
Part of
Public Record

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

Dear Secretary Williams:

On April 5, 2002, Duke Energy Corporation ("Duke") filed a Supplement-Amendment ("Supplement") to its December 19, 2001 Verified Complaint. In its Supplement, Duke challenged the rates, charges, practices and provisions of five recently published CSX Transportation, Inc. ("CSXT") tariffs (CORE-109, CORE-115, CORE-117, CORE-120, and CORE-128) which treated the same traffic at issue in Duke's complaint case but were made effective after Duke's complaint was filed.

On April 17, 2002, CSXT filed three documents that are related to Duke's Supplement. They were: (1) CSXT's Answer to the Supplement-Amendment to the Verified Complaint of Duke Energy Corporation; (2) CSXT's Motion to Strike or, in the Alternative, to Make More Definite Duke's Unreasonable-Practices Claim; and (3) CSXT's Motion to Sever Duke's Synfuel Rate Claim in a Separate Docket or, in the Alternative, to Reopen Discovery.

In its papers, CSXT requests that the Board "strike Duke's Amended Complaint insofar as it alleges an 'unreasonable practices' claim going beyond the coal maximum-rate claims contained in its original Complaint." See Motion to Strike at 5. CSXT also contends that the Board should sever Duke's challenge to the CSXT synfuel rates contained in CORE-128 from Docket No. 42070. See Motion to Sever at 6. Absent severance, CSXT requests that the Board suspend the procedural schedule in this case and reopen discovery to allow additional inquiry into issues related to synfuel. Notably, "CSXT does not object [to the

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Supplement]" insofar as it "challenges the reasonableness of the amended coal rate schedules established by CSXT to replace the 'interim' rates challenged in Duke's original Complaint." See Motion to Sever at 4 n.1.

Duke believes that CSXT's Motions are without merit and are, in fact, predicates for delaying these proceedings. Because CSXT has chosen to impose common carrier rates at confiscatory levels upon Duke's electric customers, any significant delays in the administrative process to pursue collateral disputes will be absolutely intolerable for Duke's ratepayers. To avert delay and to prevent any disruption to the procedural schedule in this case, Duke hereby withdraws its Supplement to the extent that it: (i) alleges unreasonable practices; and (ii) challenges CSXT's tariff applicable to the transportation of synfuel (i.e., CORE-128), subject to the preservation of Duke's right to file a separate Complaint challenging CORE-128 and/or CSXT's practices at some future date.

Finally, Duke notes that CSXT's pleadings seek a reopening of discovery in the event that the unreasonable practice and synfuel claims are not stricken and/or severed. In light of this letter, CSXT's alternative request for this additional discovery is not applicable. Nevertheless, in order to preempt any potential future attempt to delay these proceedings, Duke will produce documents (by Monday, April 29, 2002) sufficient to show the number of tons of synfuel that CSXT has shipped to Duke's coal-fired plants from January 1, 2001 to the present, broken down by origin, destination, load date, and permit number. At such time, Duke also will produce its best estimates of future synfuel use.

Because this letter moots CSXT's motions, this case can proceed as previously ordered by the Board.

Respectfully submitted,


William L. Slover
An Attorney for Duke Energy
Corporation

cc: G. Paul Moates, Esq. (by hand)
Paul R. Hitchcock, Esq. (by overnight courier)