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May 28, 2002

***By Hand Delivery***

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001



Re: STB Docket No. 42070, Duke Energy Corp. v. CSX Transportation, Inc.

Dear Mr. Williams:

On Friday, May 24, 2002, Defendant CSX Transportation, Inc. ("CSXT") filed its opening evidence in the above-captioned proceeding. Inadvertently omitted from the paper "hard copy" version of that filing were two non-substantive pages of the initial table of contents section. *See* CSX Transportation's Opening Evidence and Argument, Volume I (the electronic copy of the submission included the two pages omitted from the paper hard copy version). Enclosed please find an original and ten copies of those two non-substantive pages, for inclusion in CSXT's opening evidence (Volume I at pages 3-4).

In addition, CSXT also inadvertently omitted from its May 24 submission one of ten copies of one computer disk containing electronic workpapers supporting its opening evidence. Enclosed is a tenth copy of that computer disk (containing electronic workpapers), to be placed in the tenth copy of Volume III of CSXT's opening evidence.

ENTERED  
Office of the Secretary  
MAY 29 2002  
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Public Record

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WASHINGTON, D.C.

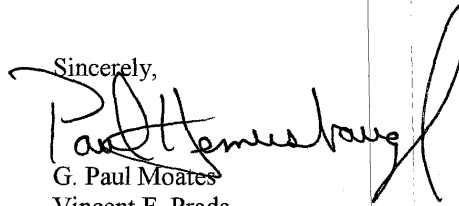
Hon. Vernon A. Williams

May 28, 2002

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Please contact Paul Hemmersbaugh if you have any questions concerning these additional copies of materials filed on May 24.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Hemmersbaugh", with a large, stylized flourish extending from the end of the signature.

G. Paul Moates

Vincent F. Prada

Paul A. Hemmersbaugh

Enclosures

cc: Robert Rosenberg

BEFORE THE  
SURFACE TRANSPORTATION BOARD

DUKE ENERGY CORPORATION,

*Complainant,*

v.

CSX TRANSPORTATION, INC.,

*Defendant.*

STB Docket No. 42070

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**OPENING EVIDENCE AND ARGUMENT OF CSX TRANSPORTATION, INC.**

Pursuant to 49 C.F.R. § 1111.8 and the procedural schedule established in the Board's decision served April 5, 2002, Defendant CSX Transportation, Inc. ("CSXT") hereby submits its opening evidence and argument in this complaint proceeding, in which Complainant Duke Energy Corporation ("Duke") is challenging the maximum reasonableness of certain common carrier rates applicable to CSXT's rail transportation of coal to Duke's Cliffside, Lee and Riverbend electric generating stations.

In accordance with the Board's procedural rules governing the submission of evidence in stand-alone cost ("SAC") rate cases,<sup>1</sup> CSXT's opening submission includes an argument and summary of evidence (Part I) and evidence addressed to the variable costs and revenue-variable cost ("R/VC") ratios produced by the challenged rail rates (Part II-A). In addition, CSXT's submission includes evidence describing the parties' commercial relationship

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<sup>1</sup> See 49 C.F.R. § 1111.8; STB Finance Docket No. 347 (Sub-No. 3), General Procedures for Presenting Evidence in Stand-Alone Cost Cases (served Mar. 12, 2001) ("SAC Procedures").

and background of the current dispute, and explaining CSXT's rationale and revenue justification for the challenged rates (Part IV). Statements of the qualifications of CSXT's witnesses, and their verifications of testimony, appear after CSXT's evidence (Part V).<sup>2</sup> Workpapers and other materials supporting CSXT's testimony are contained in Volume II and III.<sup>3</sup>

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<sup>2</sup> CSXT's testimony addressing the parties' commercial relationship, the Duke train operations and the justification for the challenged rates does not clearly fit under any of the specific headings of the "outline" of issues identified in SAC Procedures. Accordingly, CSXT has placed this testimony in Part IV, and has designated the witness qualifications and verifications as Part V.

<sup>3</sup> CSXT's evidence will be referred to herein by section and page ("II:25-30"). Workpapers will be referred to as "WP" and page ("WP-II:34-35").