

SLOVER & LOFTUS

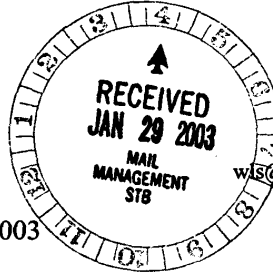
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January 29, 2003

Via: 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. 42069, Duke Energy Corporation
v. Norfolk Southern Railway Company

Dear Secretary Williams:

Under the guise of a reply to a reply, counsel for NS now attempts to engage in unauthorized surrebuttal in the above-referenced proceeding through correspondence to you dated January 24, 2003. We ask that you reject counsel's letter pursuant to your authority under 49 C.F.R. §§ 1104.8 and 1104.10. In the unlikely event that you accept it, we ask that you also accept the enclosed Comments.

Very truly yours,

William L. Slover
An Attorney for Complainant
Duke Energy Corporation

WLS:kfm

Enclosure

cc: Counsel for Defendant

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Office of Proceedings

JAN 30 2003

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Public Record

**COMMENTS BY DUKE ENERGY
ON NORFOLK SOUTHERN'S PROFFER OF
"ACTUAL TRAFFIC DATA" FOR 2002**

NS's timely disclosure of its coal traffic data and the integrity of that data are among the many issues before the Board in this proceeding. See Duke Rebuttal III-A-7-13. On January 20 and 24, 2003, NS tendered for inclusion in the record in this proceeding some data which it describes as "actual traffic data for the second half of 2002" together with argument thereon. These self-serving materials represent a one-sided expansion of existing disputes into a new time frame (3Q02 and 4Q02).

In its evidence, Duke contends that NS's coal traffic data is contrived, self-serving, and in conflict with similar data released to the public (Duke Rebuttal at III-A-13 to 25). While Duke has insufficient information to evaluate NS's newest compilation of unverified data, it vigorously challenges NS's representation that it constitutes "actual traffic data" or that it is "the best evidence of actual traffic volumes for the second half of 2002."

As best as Duke can determine from NS's proposed filing of January 20th, the so-called "actual traffic data" is, in reality, NS's latest version of movements of coal over the stand alone railroad involved in this proceeding. The size and scope of these movements are amongst the principal issues in dispute in the evidence of record. NS's proffered actual data illustrates its chameleon-like quality. For example, NS claims in its January 20th filing that Duke received 5,645,950 tons in 2002 at its Belews Creek facility.

Yet when NS's "actual" data for the second half of 2002 is combined with "actual" data for the first half, the same total for Belews Creek is 5,283,248 or 7 percent less. This anomaly is illustrative of the problems which afflict all of NS's "actual" data. No useful purpose is served by permitting NS to place additional biased evidence in the record and extol it as the best evidence. The only actual coal traffic data which exists for NS for 2002 was released by NS on January 29, 2003 and is attached hereto as Exhibit A. Duke has no objection to the inclusion of Exhibit A in the record.



Variability of Economic Indicators



Dismal Scientist - Jan. 2005

Railway Volume 2002 vs. 2001

	1Q 2002 vs. 2001	2Q 2002 vs. 2001	3Q 2002 vs. 2001	4Q 2002 vs. 2001	Total 2002 vs. 2001
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Agriculture

MetCon

Paper

Chemicals

Automotive

Mdse.

Coal

Intermoda

Total

Railway Operating Revenues 2002 vs. 2001

	4Q 2002	2002 vs. 2001		2002		2002 vs. 2001	
	\$ Mill.	Abs.	% Chg.	\$ Mill.	Abs.	% Chg.	
Merchandise	\$914			\$3,648			
Intermodal	\$306			\$1,181			
Coal	\$361			\$1,441			
Total NS	\$1,581			\$6,270			

Railway Revenue & Volume 2002 vs. 2000

	2002 Rev Mill.	2002 vs. 2000 Abs.	% Chg.	2002 Units	2002 vs. 2000 Abs.	% Chg.
Agriculture	\$623			507,202		
MetCon	\$692			716,067		
Paper	\$603			437,625		
Chemicals	\$769			433,628		
Automotive	\$961			662,506		
Mdse.	\$3,648			2,757,028		
Coal	\$1,441			1,609,560		
Subtotal	\$5,089			4,366,588		
Intermodal	\$1,181			2,354,132		
Total NS	\$6,270			6,720,720		

Revenue Per Unit 2002 vs. 2001

	4Q 2002	2002 vs. 2001		2002	2002 vs. 2001	
	RPU	Abs.	% Chg.	RPU	Abs.	% Chg.
Agriculture	\$1,244			\$1,228		
MetCon	\$980			\$966		
Paper	\$1,418			\$1,378		
Chemicals	\$1,784			\$1,773		
Automotive	\$1,485			\$1,450		
Mdse.	\$1,351			\$1,323		
Intermodal	\$526			\$502		
Coal	\$892			\$895		
Total NS	\$950			\$930		

Merchandise Revenue 2002 vs. 2001

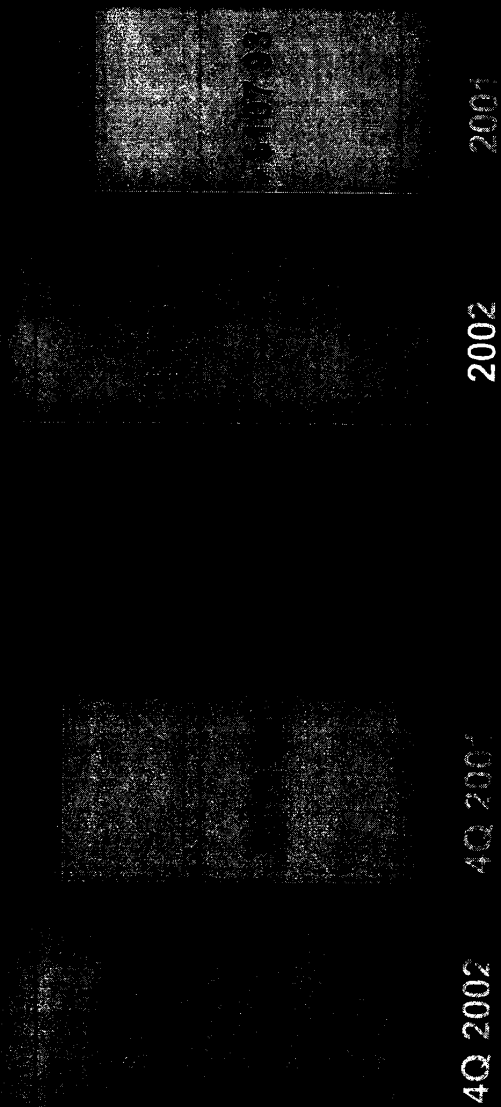
	4Q 2002	2002 vs. 2001	2002	2002 vs. 2001
	\$ Mill.	Abs. % Chg.	\$ Mill.	Abs. % Chg.
Agriculture	\$165		\$623	
MetCon	\$162		\$691	
Automotive	\$243		\$961	
Paper	\$153		\$603	
Chemicals	\$191		\$769	
Total	\$914		\$3,648	

Merchandise Revenue 2002 vs. 2001

	4Q 2002	2002 vs. 2001		2002	2002 vs. 2001	
	\$ Mill.	Abs.	% Chg.	\$ Mill.	Abs.	% Chg.
Agriculture	\$165			\$623		
MetCon	\$162			\$691		
Automotive	\$243			\$961		
Paper	\$153			\$603		
Chemicals	\$191			\$769		
Total	\$914			\$3,648		

Automotive Group

Revenue Per Car Day 2002 vs. 2001



Merchandise Revenue 2002 vs. 2001

	4Q 2002	2002 vs. 2001		2002 vs. 2001	
	\$ Mill.	Abs.	% Chg.	\$ Mill.	% Chg.
Agriculture	\$165			\$623	
MetCon	\$162			\$691	
Automotive	\$243			\$961	
Paper	\$153			\$603	
Chemicals	\$191			\$769	
Total	\$914			\$3,648	

Net Truck Diversions – Merchandise Revenue

Agriculture	\$4,912,000
MetCon	\$9,680,598
Paper	\$6,526,370
Chemicals	\$3,721,000
Automotive	\$7,967,310
Total	\$32,807,278

Coal Volume 2002 vs. 2001

	4Q 2002	vs. 2001		2002	vs. 2001	
	Carloads	Abs.	% Chg.	Carloads	Abs.	% Chg.
Utility	291,111			1,172,553		
Metallurgical	29,304			123,042		
Industrial	24,345			99,689		
Export	30,182			108,945		
Coke	15,526			50,309		
Iron Ore	14,699			55,023		
Total Coal	405,167			1,609,560		

Utility Coal Challenges

Lower stockpiles

Energy bill

Installation of clean coal devices and
downtime

Viability of gas fired units

Coal Volume 2002 vs. 2001

	4Q 2002	vs. 2001		2002	vs. 2001	
	Carloads	Abs.	% Chg.	Carloads	Abs.	% Chg.
Utility	291,111			1,172,553		
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Coke	15,526			50,309		
Iron Ore	14,698			55,023		
Total Coal	405,165			1,609,560		

Intermodal & Coal Revenue Per Unit Analysis

	4Q 2001	Traffic Mix	Increased Yield	Cost Surcharge	4Q 2002
Coal	\$881		\$18		\$892
Intermodal	\$507	\$6	\$10	\$3	\$526

Intermodal Units 2002 vs. 2001

	4Q 2002		vs. 2001		2002		vs. 2001	
	Units		Abs.	% Chg.	Units		Abs.	% Chg.
Containers	409,635				1,689,560			
Trailers	99,814				377,588			
Triple Crown	70,941				286,984			
Total	580,390				2,354,132			

Intermodal Successes for 2002

Nine interline product expansions
and launches

Equipment cost per load down
19%

Revenue units per train increased
10%

2003 Intermodal Outlook

Volume growth of industry should continue

2003 Yield Improvements

Expansion of portfolio of guaranteed services

Trucking industry facing increasing costs/ tighter capacity

Real Estate Activities - 2002

Real Estate activities generated gains from sale of property, rentals and other income which totaled \$78 million in 2002

Substantial remaining inventory of available property

Increased focus on rental and other income from property leases and use of our right-of-way





Railway Volume Quarterly 2002 vs. 2001

	3Q	2Q	1Q
	2002	2002	2002
	vs. 2001	vs. 2001	vs. 2001
Agriculture	124,726	124,473	125,365
MetCon	193,324	196,065	161,374
Paper	112,772	111,726	105,301
Chemicals	112,490	110,006	103,886
Automotive	154,770	181,143	163,174
Mdse.	698,082	723,413	659,100
Intermodal	625,398	599,539	548,805
Coal	412,394	393,549	398,450
Total	1,735,874	1,716,501	1,606,355

Railway Operating Revenue

3rd Qtr. 2002 vs. 2001 & 2000

	3Q 2002	vs. 2001		vs. 2000	
	\$ Mill.	Abs.	% Chg.	Abs.	% Chg.
Agriculture	\$152				
MetCon	\$181				
Paper	\$155				
Chemicals	\$198				
Automotive	\$231				
Mdse.	\$917				
Intermodal	\$310				
Coal	\$371				
Total	\$1,595				

Revenue & Volume Y-T-D 2002 vs. 2001

	Y-T-D 2002		vs. 2001		Y-T-D 2002		vs. 2001	
	\$ Mill.	Abs.	% Chg.		Carloads	Abs.	% Chg.	
Agriculture	\$458				374,564			
MetCon	\$530				550,763			
Paper	\$450				329,799			
Chemicals	\$578				326,382			
Automotive	\$718				499,087			
Mdse.	\$2,734				2,080,595			
Intermodal	\$875				1,773,742			
Coal	\$1,080				1,204,393			
Total	\$4,689				5,058,730			

NS Traffic Mix 3rd Qtr. 1998-2002

	2002	2001	2000	1999	1998
Merchandise	40%	41%	41%	41%	43%
Intermodal	36%	34%	34%	33%	29%
Coal	24%	25%	25%	26%	28%

Revenue Per Car 3rd Qtr. 2000-2002

	3Q 2002	3Q 2001	3Q 2000	02 vs. 01 Abs.	02 vs. 00 Abs.
Agriculture	\$1,215	\$1,215	\$1,155		
MetCon	\$935	\$950	\$886		
Paper	\$1,379	\$1,376	\$1,311		
Chemicals	\$1,758	\$1,734	\$1,657		
Automotive	\$1,494	\$1,444	\$1,318		
Mdse.	\$1,313	\$1,300	\$1,224		
Intermodal	\$496	\$502	\$498		
Coal	\$900	\$909	\$854		
Total	\$921	\$929	\$886		

Comparison of Intermodal Traffic Mix 3rd Quarter 2002 vs. 2001

vs. 3Q 2001

Price Category

Units

Less than \$400 Per Unit

55,673

\$400 through \$600 Per Unit

124

Greater than \$600 Per Unit

12,289

*-Effect of increase in shorter length of haul
business on Revenue Per Unit*

*-Effect of increase in longer length of haul
business on Revenue Per Unit*

\$5

Change Due to Traffic Mix

vs. Overall Change in Revenue Per Unit

Comparison of Coal Traffic Mix 3rd Quarter 2002 vs. 2001

vs. 3Q 2001

Units

15,648

4,084

Price Category

Less than \$250 Per Car

\$250 through \$900 Per Car

Greater than \$900 Per Car

*-Effect of new short haul business
on Revenue Per Car*

*-Effect of less longer haul business
on Revenue Per Car*

Change Due to Traffic Mix

vs. Overall Change in Revenue Per Car

Coal Volume 2002 vs. 2001

	3Q 2002	vs. 2001		Y-T-D 2002	vs. 2001	
	Carloads	Abs.	% Chg.	Carloads	Abs.	% Chg.
Utility	306,177			881,442		
Export	19,285			78,763		
Metallurgical	33,448			93,732		
Industrial	25,302			75,344		
Coke	13,313			34,783		
Iron Ore	14,869			40,324		
Total	412,394			1,204,393		



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	3Q	2Q	1Q
	2002	2002	2002
	vs. 2001	vs. 2001	vs. 2001
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vs. Overall Change in Revenue Per Unit

Comparison of Coal Traffic Mix 3rd Quarter 2002 vs. 2001

vs. 3Q 2001

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15,648

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Price Category

Less than \$250 Per Car

\$250 through \$900 Per Car

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Coke	13,313			34,783		
Iron Ore	14,869			40,324		
Total	412,394			1,204,393		

Intermodal Volume 2002 vs. 2001

	3Q 2002	vs. 2001		Y-T-D 2002	vs. 2001	
	Units	Abs.	% Chg.	Units	Abs.	% Chg.
Containers	458,764			1,279,925		
Trailers	97,587			277,774		
Triple Crown	69,047			216,043		
Total	625,398			1,773,742		

Intermodal Outlook

Growth will be tempered in the fourth quarter due to economic uncertainty

Unknown impact of West Coast Port labor dispute

Continued pursuit of truck diversions with new product launches

Truckload carriers are increasing prices

Merchandise Revenue 2002 vs. 2001

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Mdse.	\$917			\$2,734		

North American Vehicle Production 1999-2003(P)

North American Vehicle Production (000)

	1999	2000	2001	2002	2003(P)
Passenger	8,250	8,233	7,161	7,411	7,285
Light Truck	8,805	8,971	8,342	8,992	9,154
Total	17,055	17,204	15,503	16,403	16,439

Autocast September 2003

NS NORFOLK
SOUTHERN

