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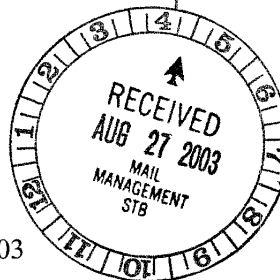
The Honorable Vernon A. Williams
Secretary
Surface Transportation Board - Case Control Unit
1925 K Street, N.W.
Washington, D. C. 20423

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

Dear Mr. Secretary:

Duke Energy Corporation (Duke), the complainant in this proceeding, provides the following information as directed by Item 3 of the Board's Order served August 11, 2003. William L. Slover, a member of the Slover & Loftus law firm of Washington, D.C. will speak on Duke's behalf.

In its direct argument, Duke will explain how Defendant CSX Transportation's (CSXT) quest for ever-increasing rates on Duke's captive coal traffic forced Duke to invoke the jurisdiction of the Surface Transportation Board in Duke's purchase of railroad transportation services. Duke will then demonstrate that the direct consequence of its decision - the highest common carrier rates on coal traffic on record - constitute an impermissible attempt on CSXT's part to game the maximum rate determination under the Board's Coal Rate Guidelines. By gaming the Guidelines through the abuse of its prerogative to initiate rates under Section 10701, CSXT, unless thwarted by the Board, will have guaranteed itself in advance a favorable outcome to this proceeding. Duke will also insist that CSXT be held accountable to its promise to the Board and to the shipping



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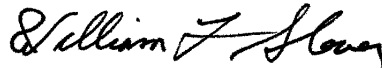
public in the Conrail Decision that it would not make up shortfalls in its profit projections through rate increases on captive traffic.

After demonstrating that the assailed rates, which earn CSXT revenues of 50 mills per ton-mile, both game the Board's Guidelines and breach Condition 19 of the Conrail Decision, Duke will show why the challenged rates are unlawfully high under the Guidelines. The Variable Cost evidence, even when viewed in a light most favorable to CSXT, establishes that the revenue/cost ratio of every one of the 46 challenged rates greatly exceeds the jurisdictional threshold. When the best Variable Cost evidence of record is considered, the assailed rates evince an astounding average revenue/cost ratio approaching 400 percent. Duke will also demonstrate that CSXT's rate schedules are unlawful and that they unduly restrict and restrain essential energy commerce in the east.

Before turning to a discussion of the evidence on Stand Alone Cost (SAC), Duke will address CSXT's principal contention in this proceeding; namely, its profusely presented position that the Board is precluded from any application of the Guidelines which diminishes CSXT's revenues. Duke will also place the requirements of the public interest in their proper perspective. Duke will then proceed to demonstrate that the most probative evidence on stand-alone revenues, investment, and operating costs confirms the unlawfulness of the challenged rates which was shown by the Variable Cost evidence. When the "least cost" principles of stand alone cost finding are applied to the relatively short movements in issue in this proceeding (*circa* 350 miles), the conclusion is inescapable that the revenues from the stand alone customers vastly exceed the full costs of an efficient hypothetical railroad and therefore Duke's SAC is well-below the levels of the challenged rates. As the Board's Order permits, Duke will reserve a portion of its time for rebuttal.

We trust that the foregoing summary is fully responsive to the Board's Order and we welcome the addition or deletion of any items by the Board.

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Slover". The signature is fluid and cursive, with the first name "William" and last name "Slover" clearly distinguishable.

William L. Slover

WLS:kfm
cc: G. Paul Moates, Esq.