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BEFORE THE
SURFACE TRANSPORTATION BOARD

NOV 18 2003
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DUKE ENERGY CORPORATION,

Complainant,

v.

NORFOLK SOUTHERN RAILWAY
COMPANY,

Defendant.

Docket No. 42069

ENTERED
Office of Proceedings

NOV 19 2003

Part of
Public Record

PETITION TO STAY ORDER PENDING CORRECTION
OF DECISION FOR TECHNICAL ERROR

– EXPEDITED HANDLING REQUESTED –

DUKE ENERGY CORPORATION

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Dated: November 18, 2003

Attorneys for Complainant

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DUKE ENERGY CORPORATION,	)	
	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. 42069
	)	
NORFOLK SOUTHERN RAILWAY	)	
COMPANY,	)	
	)	
Defendant.	)	
	)	

**PETITION TO STAY ORDER PENDING CORRECTION
OF DECISION FOR TECHNICAL ERROR**

– EXPEDITED HANDLING REQUESTED –

Comes now Complainant, Duke Energy Corporation (“Duke”), and in accordance with 49 C.F.R. § 1115.5 petitions the Board for a stay of its Decision of November 6, 2003 (the “Decision”) and in support thereof shows:

Under separate cover, Duke has filed a Petition to Correct Technical Error in which it has identified a number of technical errors appearing in and/or underlying the Board’s Decision. In the certain likelihood that the Board concurs that many of the computations in its Decision are flawed because of the technical errors which Duke has identified, the Board will need to correct its Decision by revising computations now appearing therein. When these computations are corrected, it is certain that the resulting

Decision will be different in several important respects from the flawed Decision of November 6, 2003.

Under the foregoing circumstances, no useful purpose would be served through further proceedings (i.e., proceedings relating to reconsideration, phasing, and/or judicial review) until such time as the Board has been given an opportunity to review Duke's Petition to Correct Technical Error and to make the changes necessitated by the mistakes enumerated therein. See Finance Docket No. 34392, New Jersey Rail Carrier LLC – Acquisition and Operation Exemption – Former Columbia Terminals, Kearny, NJ, Decision served August 13, 2003 (granting a stay in order to permit the Board to obtain “additional, more specific information . . . to allow the Board to make an informed decision . . .”). No harm shall accrue to Defendant Norfolk Southern if a stay is granted, as it will continue to charge and collect the rates approved by the Board.

WHEREFORE, Duke prays that the Board's Order in this proceeding be stayed until such time as the Board has acted upon Duke's Petition to Correct Technical Error and has served its revised Decision.

Respectfully submitted,

DUKE ENERGY CORPORATION

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Dated: November 18, 2003

Attorneys for Complainant

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2003, a copy of the foregoing
Petition To Stay Order Pending Correction Of Decision For Technical Error of Com-
plainant Duke Energy Corporation, was served by hand upon the following counsel for
Defendant Norfolk Southern Railway Company:

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