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December 2, 2003

By Hand Delivery

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

ENTERED
Office of Proceedings

DEC 02 2003

Part of
Public Record

**Re: STB Docket No. 42069, Duke Energy Corporation v. Norfolk
Southern Railway Company**

Dear Secretary Williams:

Enclosed for filing on behalf of Norfolk Southern Railway Company in the above-referenced proceeding are a signed original and ten (10) copies of the Reply of Defendant Norfolk Southern Railway Company to Complainant Duke Energy Corporation's Petition to Correct Technical Error ("Reply"). Also enclosed are two (2) CD ROMs containing electronic workpapers, and two (2) floppy disks containing electronic versions of the Reply.

Please acknowledge receipt of this submission for filing by date-stamping the enclosed duplicate paper copy and returning it to our messenger.

If you have any questions concerning this filing, or require additional copies of any of the enclosed materials, please contact one of the undersigned. Thank you for your attention to this matter.

Sincerely,

G. Paul Moates

Terence M. Hynes

Paul A. Hemmersbaugh

Enclosures

cc: Counsel for Complainant (w/encls.)
David M. Konschnik

209510

BEFORE THE
SURFACE TRANSPORTATION BOARD

DUKE ENERGY CORPORATION,

Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,

Defendant.

STB Docket No. 42069

ENTERED
Office of Proceedings

DEC 02 2003

Director
Office of Proceedings

REPLY OF DEFENDANT NORFOLK SOUTHERN
RAILWAY COMPANY TO COMPLAINANT DUKE ENERGY
CORPORATION'S PETITION TO CORRECT TECHNICAL ERROR

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DATED: **December 2, 2003**

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DUKE ENERGY CORPORATION,

Complainant,
v.

NORFOLK SOUTHERN RAILWAY COMPANY,

Defendant.

Defendant Norfolk Southern Railway Company (“NS”) respectfully submits this Reply to Complainant Duke Energy Corporation’s (“Duke”) November 18, 2003 “Petition to Correct Technical Error” (the “Error Petition”) in the Board’s Decision served on November 6, 2003 (the “November 6 Decision” or the “Decision”). Also on November 18, Duke filed a “Petition to Stay” the November 6 Decision (the “Stay Petition”) pending the Board’s determination of issues presented in Duke’s Error Petition. On November 21, 2003 NS filed a Reply to Duke’s Stay Petition (the “Stay Reply”), contending, *inter alia*, that no stay was necessary or appropriate. On November 25, 2003, the Board issued an Order staying its November 6 Decision pending the Board’s review of the issues raised by Duke in its Error Petition. See Decision in STB Docket No. 42069 (served Nov. 25, 2003) (the “Stay Order”). Because the Stay Order indicated the Board intends to address the contentions raised in Duke’s Error Petition during the pendency of the Stay, NS hereby submits this Reply to aid the Board in its consideration of that Petition, and offers for the Board’s consideration a technical error that NS has identified in the Decision’s calculation of the costs of grading the ACC roadbed.

I. INTRODUCTION AND SUMMARY

NS was surprised and dismayed to learn, on November 19, 2003, that evidence it had submitted fourteen months ago in this proceeding now appeared to contain two significant errors. NS, its lawyers and its consultants were entirely unaware of the two errors (involving double-counting of bridge abutments and of tunnel investment costs) in NS' evidence until Duke discovered those errors and raised them in its Error Petition. NS has investigated and analyzed the errors identified by Duke. Based on that analysis, NS has determined that its Reply evidence did contain inadvertent errors that had the effect of double-counting bridge abutment costs and certain tunnel costs, and that those errors resulted in an overstatement of costs by approximately the amounts Duke calculated.

NS deeply regrets those errors, and that it did not discover them and bring them to the Board's attention earlier. As the Board knows, Stand Alone Cost ("SAC") proceedings are very complex, and involve vast amounts of data and information and innumerable calculations and analyses based on that data. The parties' voluminous and complex evidence must be developed and filed in a relatively short time. Because of the sheer volume and complexity of these cases, it is nearly inevitable that, despite the best efforts of the parties, their evidence will contain some arithmetic errors. Throughout this case, in the few instances when NS discovered material computational or mechanical errors, it promptly alerted Duke and the Board to their existence and how they should be corrected. An important function of the multiple rounds of evidence in SAC cases is to promote the discovery and correction of errors that are revealed when each party scrutinizes the opposing party's evidence and identifies such errors in its responsive evidentiary filing. Thus, for example, after NS pointed out that Duke's opening evidence had included only one rail per track (rather than two), Duke corrected that \$79.8 million error in its Rebuttal evidence. See Duke Reb. at III-F-90; Duke Reb. Elec. WP "IIIF3f.xls." Unfortunately, in the case of two large computational errors Duke raised in its Error Petition, these checks against

errors did not work – neither NS nor Duke found the errors until after the Board issued its November 6 Decision.

The fact that these errors involved significant construction costs makes them even more regrettable. NS emphasizes, however, that all seven of the computational errors Duke has alleged, in toto, are insufficient to change the outcome in this case. As NS demonstrated in its opposition to the Stay Petition, even assuming the Board were to adopt the full dollar amount of all the errors identified and quantified in Duke’s Error Petition, the Board’s SAC analysis would still show the cumulative present value of the SARR’s costs would exceed its revenues by more than \$120 million. See NS Stay Reply at 2, 5-6 & Exhibit. Further, correction of the technical error in calculation of grading costs that NS identifies below would result in an additional increase in investment costs of approximately \$12.8 million. Moreover, NS’ Petition for Reconsideration, which it will file pursuant to the schedule set by the Board after it lifts the stay, will present matters that are likely to increase the net cumulative excess of SARR costs over revenues significantly.

NS believes Duke has incorrectly calculated the dollar amounts attributable to some of the errors, and therefore the Board should reject some of the cost reductions Duke seeks in its Error Petition. Below, NS addresses all of the errors described in Duke’s Error Petition, and what NS’ review and analysis to date have determined about the source and amount of those errors.

II. DISCUSSION OF ERRORS QUANTIFIED IN DUKE’S PETITION

A. Bridge Abutments

NS’ review has determined that its Reply evidence inadvertently doubled the quantity of bridge abutments that its analysis showed were necessary to construct the ACC. Neither Duke nor NS found that error prior to the Board’s Decision, and the Decision (relying on NS’ evidence that the Board had no reason to believe contained such an error) adopted the costs set forth in

NS' Reply evidence. NS first learned of this inadvertent error when its counsel reviewed Duke's Error Petition on November 19, 2003. See Affidavit of Michael R. Baranowski at ¶¶ 4-6 ("Baranowski Aff. ¶ ____")

NS' analysis and calculations indicate that Duke's Error Petition overstated the construction costs attributable to the double-counting of bridge abutments by approximately \$6.2 million. Because Duke did not provide workpapers to support its calculation, NS cannot determine how Duke developed its cost estimate, but NS' calculations indicate that eliminating the double-counting of bridge abutments would reduce ACC investment costs in the Decision by approximately \$278.2 million, rather than the \$284.4 million calculate by Duke. Compare Baranowski Aff. ¶ 5 with Duke Error Petition at 3; see Workpaper in Support of NS Reply to Duke's Petition to Correct Technical Error "STB Revised Construction Total 50-50_Reroute.xls" (NS Error Reply WP 0001").

B. Retaining Wall Quantity

This is an instance in which the adversarial process, and multiple rounds of evidence, worked as intended to correct an inadvertent error in NS' evidence. In its Reply Evidence, NS used the quantities reported in the ICC Engineering Report for "piling sheet driven for protection," 14, 200 thousand board-feet. See NS Reply WP III-F-0974. On Rebuttal, Duke stated that the correct quantity should be 14.2 thousand board-feet. See Duke Reb. at III-F-71, n.53. NS investigated the issue raised in Duke's Rebuttal, and determined that the discrepancy resulted from an error in the ICC Engineering Report itself for the relevant valuation section. Specifically, the Engineering Report contained an error that resulted in a mis-statement of the piling quantity for that valuation section by a factor of 1000 (i.e. the Engineering Report listed quantity as 14,200 when quantity should have been listed as 14.2). See Baranowski Aff. ¶¶ 12-13. On Brief, NS conceded that the number it had used in its retaining wall quantity spreadsheet

– taken directly from the ICC Engineering Report – was incorrect, and that Duke’s Rebuttal had correctly identified that error. See id., ¶¶ 12-14; NS Brief at 38. n.68.

Duke is correct that the Decision appears to have used the incorrect retaining wall quantity set forth in NS’ Reply evidence (which carried forward the incorrect entry from the Engineering Report), rather than the corrected quantity that Duke provided in its Rebuttal and NS acknowledged in its Brief (albeit in a footnote). To correct for this overstatement, the Board should reduce retaining wall quantities for the ACC from 14,200 thousand board feet to 14.2 thousand board feet. NS has calculated that using the erroneous quantity set forth in the Engineering Reports resulted in a retaining wall investment cost overstatement of approximately \$88.9 million, rather than the \$90.8 million claimed by Duke. See Baranowski Aff. ¶ 15; Compare NS Error Reply Elec.WP 0001 “STB Revised Construction Total 50-50_Reroute.xls” with Duke Error Petition at 4-5.¹

C. Tunnel Investment Costs

In response to the claim Duke raised in its Error Petition that the tunnel investment cost the Board adopted from NS’ evidence overstated the costs for daylighted tunnels (Error Petition at 5), NS has re-examined the evidence it submitted in its Reply 14 months ago. Based on that review, it now appears that Duke’s recent error petition correctly identified an error in NS’ Reply evidence. NS’ calculations inadvertently included the costs of boring a tunnel in the first instance, and the cost of open cutting or “daylighting.” Because Duke hypothesized that the ACC would construct open cuts (rather than building tunnels as on the existing NS) at those sites from its inception, costs for constructing those open cuts should not have included the costs of boring a tunnel.

¹ The \$80 million figure NS cited in its Brief did not include certain engineering and contingency additives, which effectively increase the overstatement of investment costs attributable to the use of the erroneous Engineering Reports entry to \$88.9 million.

NS' error appears to have resulted from an erroneous formula in its tunnel investment cost spreadsheet that caused the calculation to include tunnel boring costs for all tunnels that exist along the lines of the NS traversed by the ACC, when such costs should have been excluded for those sites where Duke assumed the ACC would make an open cut rather than build a tunnel. See NS Reply Elec. WP "IIIF – Construction Total. xls, tab tunnel.inv"; Baranowski Affid. ¶¶ 7-10. NS calculates that the amount of the resulting overstatement of tunnel costs is approximately \$58.6 million, slightly less than the \$58.9 million Duke calculated. Compare id. with Error Petition at 5.

D. Error in Board's Calculation of Tunnel Daylighting Quantity

Duke's Error Petition claims that, in its Decision, the Board stated it was adopting the quantities Duke proffered for tunnel daylighting, but in its workpapers the Board used NS' tunnel daylighting quantities. Error Petition at 5-6. The reality is more complex. The text of the Decision states that the Board accepted Duke's assumption concerning side slopes assumption, which is one of three specific factors that determine open cut excavation quantities the Decision expressly addresses. See Decision at 93. The same paragraph of the Decision goes on to state that the Board accepted NS' evidence with respect to the second specific factor affecting tunnel daylight quantities, double-tracking of certain open cuts. Id. NS cannot determine from the text of the Decision how the Board resolved the parties' dispute regarding the third factor, whether the roadbed width in daylighted tunnels should be the 28 feet Duke specified in its Opening and NS accepted on Reply, or the 24-foot width to which Duke switched on Rebuttal. See NS Brief at 37, n. 63. Thus, it is not correct for Duke to claim that the Board fully "accept[ed] Duke's quantities for tunnel daylighting." See Error Petition at 5.

It appears that the Board's workpaper calculations did use NS' side slope assumption in its calculation of open cut excavation quantities. Assuming that the Board intended to adopt Duke's side slope assumption as it stated in the text of the Decision, the calculation set forth in

the staff workpapers apparently does contain an error, which pertains solely to the sideslope assumption, and not to all open cut excavation quantities. NS has determined that the result of this apparent error in the Board's workpapers is an overstatement of ACC investment costs by \$20.1 million if the Board intended to adopt the 28-foot roadbed width specified in Duke's case-in-chief, or \$21.3 million if the Board intended to adopt the 24-foot width Duke substituted on Rebuttal. See NS Error Reply Elec. WP 0001 "STB Revised Construction Total 50-50_Reroute.xls"

E. Error in Board's Mobilization Cost Calculation

Duke identified a difference between the text of the Decision and the Board's workpaper calculations pertaining to mobilization costs. Error Petition at 6-7. NS has confirmed that the text of the Decision and staff workpapers are not consistent with respect to certain mobilization costs. Assuming that the Board intended to implement in its workpapers the approach described in the text of the Decision, Duke is correct that the Board's mobilization calculations overstated investment costs by approximately \$1 million. See NS Error Reply Elec. WP 0001 "STB Revised Construction Total 50-50_Reroute.xls"

F. Board's Maintenance of Way Cost Understatement

Duke notes another discrepancy between the text of the Decision and the Board's workpapers in the maintenance-of-way ("MOW") cost category. See Error Petition at 7. Again assuming that the Board intended to implement the approach described in the text of the Decision, it appears the staff workpapers do contain three clerical errors. NS agrees with Duke that the net result of these errors is an understatement of annual MOW expenses by approximately \$1.8 million. Correcting this error would increase the ACC's annual MOW expenses by \$1.8 million in the first year.

G. Board's Error in Applying Mileage Prorate to Movements Where Duke Intended Residual NS To Be Overhead Carrier

The Board applied a "Modified Straight-Mileage Prorate" ("MSP") to allocate revenues from crossover traffic between the ACC and the residual NS. Duke notes that for some movements, the Board's MSP calculations credited a 100-mile "termination block" to the residual NS on movements where NS would neither originate nor terminate the movement. Error Petition at 7-8. Duke is correct that the Board applied a termination block credit to the residual NS on several movements on which it would serve as an overhead carrier and would not terminate the movement. NS agrees with Duke that, if the Board were to apply its MSP methodology and eliminate the termination block credit, the result would be to increase annual ACC revenue by approximately \$1.2 million in the first year.

III. EARTHWORK COSTS DO NOT INCLUDE ALL ACC TRACK MILES (Error Resulting in \$12.8 million Understatement of SARR Earthwork Investment Costs)

NS has identified a technical error in the Board's calculation of ACC earthwork costs, and brings it to the Board's attention to allow it to address this error at the same time the Board addresses the errors identified in Duke's Error Petition. In the November 6 Decision, the Board held that "because . . . Duke's operating plan for the ACC is rejected, its ACC configuration must also be rejected." Decision at 48. Accordingly, the Decision adopted the main line, secondary line and yard track mile values proposed in NS' Reply (as modified in the Supplemental Evidence submitted by NS on October 24, 2003). See Decision at 47- 48 and Table A-2.

However, the Board apparently did not incorporate its findings with respect to main line, secondary line and yard track miles into its calculation of the ACC's earthwork costs. Specifically, the Board apparently utilized the grading spreadsheet submitted by Duke as the basis for calculating the ACC's earthwork costs. Compare STB Decision WP "STB Revised Grading 50-50-Reroute.xls" with Duke Reb. WP "III-F_GRADING ACC REBUTTAL.123".

Duke's grading spreadsheet, however, was based upon the number of main line, secondary line and yard track miles proposed by Duke in its Rebuttal, and did not include the additional miles proposed in NS' SARR configuration evidence (which the Board adopted in the Decision). See Duke Reb. WP "III-F_GRADING ACC REBUTTAL.123". The Board further reduced the cost in its earthwork calculations by slightly more than one percent, apparently to account for the reduction in track facilities resulting from the disallowance of certain traffic reroutes proposed in Duke's case-in-chief. See STB Decision WP "STB Revised Construction Total 50-50_Reroute.xls"

The foregoing computational error (i.e. STB workpapers use of incorrect figures for main line, secondary line and yard track miles instead of those adopted in the text of the Decision) caused a substantial understatement of the ACC's earthwork costs in the Board's calculation of those costs. The workpapers NS submits with this Reply show the correct ACC main line, secondary line and yard track mile values, based upon NS' case-in-chief (as modified in NS' supplemental evidence), reduced to reflect the secondary track miles disallowed by the Board in the Decision. See NS Error Reply Electronic WP 0001 "STB Revised Grading 50-50-Reroute Corrected Miles.xls" and "STB Revised Construction Total 50-50_Reroute.xls". Correcting the Board's earthwork calculations to reflect the track mile values adopted elsewhere in the text of the Decision would increase the ACC's investment costs by approximately \$12.8 million.

IV. DUKE'S CLAIM THAT THE BOARD MADE A "TECHNICAL ERROR" BY APPLYING THE RCAF-U TO INDEX OPERATING COSTS

As NS explained in its Reply to Duke's Stay Petition, Duke's argument regarding the Board's application of the RCAF-U to index operating expenses (the same method it used in its most recent prior decision, TMPA) cannot reasonably be characterized as a "technical error." Duke is not arguing that the Board made an arithmetic error in applying the RCAF-U, but that Duke would prefer the Board would depart from TMPA and apply some other (unspecified)

index. Consistent with its most recent precedent, the Board applied the RCAF-U to index operating expenses. If Duke wishes to request that the Board reconsider that legal and policy determination, it should so advise the Board, not claim the Board's conscious, considered decision was "a technical error consisting of [the Board's] inadvertent misapplication of a stated procedure." Error Petition at 8.

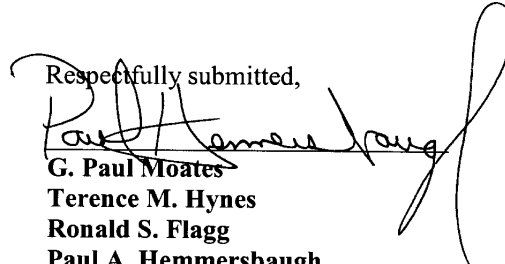
CONCLUSION

As NS stated at the outset, it deeply regrets the two inadvertent errors contained in its Reply evidence. Neither NS nor its consultants or counsel had any inkling that the evidence it filed contained such significant errors until Duke raised the issue in its Error Petition filed on November 18, 2003. NS investigated the seven specific errors Duke identified as quickly as possible after Duke raised them, provided a preliminary assessment of the two errors flowing from NS' evidence within two days, and this fuller assessment and response seven business days after it learned of the alleged error, and three business days after the Board issued a stay to allow it to consider Duke's claims. See Decision, STB Doc. No. 42069 (late release Nov. 25, 2003).

As detailed above, NS' calculations indicate that the dollar amount Duke attributes to the errors quantified in its Error Petition is overstated by a total of approximately \$8.5 million. In addition, NS has identified an apparent computation error that, when corrected, should increase ACC investment costs by approximately \$12.8 million. Moreover, as NS has emphasized, even if the Board were to accept in their entirety the full dollar amount of the errors Duke claimed in its Error Petition, the resulting revised Decision would still show that the cumulative net present value of the SARR costs exceed its revenues by more than \$120 million. See NS Reply to Stay Petition, Exhibit (Nov. 21, 2003). Thus, even assuming the most favorable outcome for Duke,

the bottom line SAC conclusion would remain the same: the NS rates that Duke has challenged are reasonable. Therefore, the Board should lift the stay while it determines the appropriate corrections to its Decision.

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(757) 629-2657

Respectfully submitted,

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1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

Counsel for Defendant Norfolk Southern Railway Company

DATED: December 2, 2003

DUKE ENERGY CORPORATION,

V.

Defendant.

AFFIDAVIT OF MICHAEL R. BARANOWSKI

1. My name is Michael R. Baranowski. I am a Senior Managing Director of the
ial Consulting Division of FTI Consulting, Inc. My business address is 1201 Eye Street,
uite 400, Washington DC, 20005. I am the same Michael R. Baranowski who sponsored
as of the NS Reply evidence in this proceeding. Specifically, I was responsible for
as of narrative sections III-F, III-G and III-H.

3. During the time the NS Duke Reply evidence was being prepared, FTI was also preparing reply evidence in two other eastern stand-alone proceedings: Duke versus CSXT and CSXT versus NS. Reply evidence was scheduled for September 20, 2002 in the Duke/CSXT

case, September 30, 2002 in the Duke/NS case and October 11, 2003 in the CP&L/NS proceeding. Because of the schedules, FTI worked on all three cases simultaneously.

4. Based on my investigation, I have now concluded that NS' bridge investment costs for the ACC (the SARR in Duke v. NS) were overstated because of an inadvertent double count of the costs for bridge abutments, which resulted from the use of an incorrect formula in the spreadsheet FTI used to calculate bridge abutment quantities.

5. This error carried over to the Board's decision in this proceeding, served on November 6, 2003 (the "Decision"). Based upon its review and best understanding and construction of the calculations embodied in the Board's workpapers supporting the Decision, FTI has calculated that bridge abutment costs in that Decision were overstated by approximately \$278.2 million as a result of FTI's use of the incorrect formula.

6. Neither I, nor to the best of my knowledge and belief, anyone at FTI, NS counsel Sidley Austin Brown & Wood, or NS was aware of this bridge abutment quantity error before Duke served its Petition to Correct Technical Error on NS on the evening of November 18, 2003.

7. NS' tunnel investment cost evidence filed in its September 2002 Reply Evidence was overstated because FTI inadvertently neglected to remove tunnel construction costs (i.e. "tunnel boring" costs) from its tunnel inventory for those tunnels that Duke indicated the ACC would not build, but instead would address using "open cut" construction.

8. To develop tunnel investment costs, FTI used the NS tunnel inventory to identify the tunnels on the lines of the actual NS that Duke's SARR (the "ACC") would traverse. The spreadsheet FTI designed for determining tunnel costs contained a formula that assigned tunnel investment costs to each of those tunnels.

9. Based on my recent investigation, I have now determined that the spreadsheet FTI prepared for this case inadvertently failed to include a formula to exclude tunnel boring costs for those (fifteen) locations at which Duke indicated its SARR would make an open cut rather than bore a tunnel. The result was that the FTI tunnel cost spreadsheet overstated tunnel costs by the amount of the tunnel investment the SARR would have incurred had it built tunnels rather than open cuts at those fifteen locations.

10. This error carried over to the Board's Decision .. FTI has calculated that the amount of the resulting overstatement of tunnel investment costs reflected in the Decision is approximately \$58.6 million.

11. Neither I, nor to the best of my knowledge and belief, anyone at FTI, NS counsel Sidley Austin Brown & Wood, or NS was aware of this tunnel cost investment error before Duke served its Petition to Correct Technical Error on NS on the evening of November 18, 2003.

12. NS' retaining wall investment was overstated because NS, in developing the retaining wall inventories from the ICC Engineering Reports unknowingly replicated an error in the ICC Engineering Report quantities. The ICC Engineering Report for Southern Railway Company Valuation Section 33 reported the quantity of Piling sheet driven for protection under Protection of Roadways as 14,200 M.B.M.¹ A copy of NS reply work paper III-F-0974 showing the reported quantity and a blow-up of the sheet piling quantities are included as Attachment A. NS included this quantity in its electronic grading cost spreadsheet at NS Reply electronic WP III-F 2 Grading.xls..

13. In its Rebuttal, Duke claimed that NS incorrectly reported the quantity of sheet driven piling, stating that the correct quantity should be 14.200 M.B.M. In response to Duke's

¹ Thousand board feet.

rebuttal, NS checked the ICC Engineering Reports and determined that although it had correctly reported the figure in the Engineering Report in its electronic spreadsheet, the figure reported in the Engineering Reports was incorrect. NS confirmed the Engineering Report figure to be incorrect by dividing the Engineering Report investment by the reported unit cost, yielding an implied quantity of 14.2.

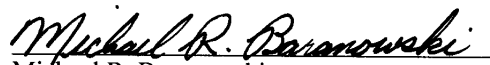
14. FTI advised NS that Duke had correctly identified an error in NS evidence, which was based on NS' accurate reporting of an erroneous number in the relevant Engineering Reports. NS acknowledged this error in the Brief it filed in connection with this proceeding.

15. The Engineering Report error repeated in NS' Reply evidence apparently carried over into the Board's Decision workpaper calculations. FTI has calculated that the amount of the resulting overstatement of retaining wall investment reflected in the Board's Decision by approximately \$88.9 million.

16. Further your affiant sayeth not.

On this second day of December 2003, I hereby swear, under penalty of perjury that, to the best of my knowledge, information, and belief, the foregoing statements are true and correct.

December 2, 2003


Michael R. Baranowski

Attachment A

INTERSTATE COMMERCE COMMISSION BUREAU OF VALUATION

Sheet No. _____ of this valuation section.

Owner Southern Railway CompanyApproved: C. A. HaglundSection No. 33

Miles Main Line, _____

Miles all Tracks.* _____

12-980

Where but a single percentage is stated it represents both per cents.

CHARACTER OF PROPERTY AND DESCRIPTION

Condition
Per Cent
of Cost
of Reproduction

UNIT

NUMBER OF
UNITS

COST OF REPRODUCTION

Per Unit

New, Total

Less Depreciation

3 Title GRADING

(I. C. C. classification)

14 to N.P. 48.05

N.P. 139.76

112.28 to N.P. 185.43

All Tracks:

Clearing

100

Acres.

840.00

40.00

33,600

33,600

Grubbing

100

"

323.28

60.00

19,397

19,397

Excavation:

Solid rock

100

Cu.Yd.

24000

1.00

24,000

24,000

Common

100

"

4361481

.28

1,133,985

1,133,985

Loose rock

100

"

2339847

.40

935,859

935,859

Solid rock

100

"

3567544

.77

2,563,009

2,563,009

Team overhaul 500 ft. free haul

100

CY Sta

10820180

.011

135,252

135,252

Train "over 5,000 ft. under 10,000 ft.

100

CY 1000'

1306000

.011

19,590

19,590

" " " 10,000 ft. under 25,000 ft.

100

"

1545100

.01

19,451

19,451

Protection of Roadway:

Masonry concrete plain

90

Cu.Yd.

1020

9.00

9,180

9,262

" square stone

85

"

328

9.00

2,952

2,309

" dry rubble

75

"

19639

5.50

108,015

81,011

" rubble in Mortar

80

"

11289

6.50

73,379

58,703

Foundation excavation

80

"

73

.25

18

14

Timber retaining walls pine

50

M.B.M.

66.200

45.00

2,979

1,490

Bolts 3/4" x 22" U. iron

50

Lb.

210

.04

8

4

Piling sheet driven for protection

50

M.B.M.

14.200

45.00

639

320

" round " as "

50

Lin.Ft.

11216

.45

5,047

2,324

Raile 60, 430' lin.ft.

75

Lb.

8600

.02

172

129

Chain 3/4" links

50

"

116

.04

5

3

Timber flume

50

M.B.M.

3.100

45.00

140

70

Sodding

50

Each

8061

.50

4,041

2,021

Sodding Horse-suckle placed by Carrier

100

Sq.Yd.

50465

.03

1,514

1,514

Timber pine in cribs

50

M.B.M.

4.700

45.00

212

106

Rip rap

100

Cu.Yd.

6732

1.75

11,764

11,764

Vitrified Clay Pipe 8" to 12" diam.

75

Lin.Ft.

981

.373

373

280

Wood box

50

M.B.M.

.200

42.00

8

4

Logs 12" diam.

50

Lin.Ft.

597

.12

72

36

Total for Valuation Section

99

5,130,661

5,080,907

ACCOUNT 5 - TUNNELS AND SUBWAYS

Point Tunnel, Mile 113:

Station 5918+94 to 5921+07:

213 ft. long, all unlined

100

Excavation

100

Cu.Yd.

2633

3.25

8,557

8,557

Total

100

8,557

8,557

Point Tunnel, Mile 120:

Station 6305+82 to 6306+87:

125 ft. long, all unlined:

100

Excavation

100

Cu.Yd.

1433

3.25

4,657

4,657

Total

100

4,657

4,657

Point Tunnel, Mile 121:

Station 6345+69 to 6351+57:

588 ft. long lined with timber 61', unlined 527':

100

Excavation

50

Cu.Yd.

6949

3.25

22,584

22,584

Timber in lining including metal

50

M.B.M.

43.500

45.00

1,958

979

Packing

50

Cu.Yd.

40

1.50

60

30

Rubble masonry in portals

75

"

20

8.00

160

120

Total

96

24,762

23,713

B. V. Form No. 661

INTERSTATE COMMERCE COMMISSION BUREAU OF VALUATION

Sheet No. 1 of this valuation section

Owner Chicago & North Western Railway

Approved: W. A. McLaughlin

Val. Section No. 23 Miles Main Line, Miles All Tracks.

LOCATION

Where but a single percentage is stated it represents both per cents.

CHARACTER OF PROPERTY AND DESCRIPTION

UNIT

NUMBER OF UNITS

COST OF REPRODUCTION

Per Unit

New Total

Less Depreciation

Acct. No. 3 Title GRADING

(I.C.C. Classification)

Station 14 to 117. 46.00
Station 117 to 130. 130.75
Station 130 to 135. 135.43

All tracks:

Grading
Grading

100	Grading	100.00	100.00	100.00	100.00
100	"	100.00	100.00	100.00	100.00

Solid rock

100	Solid rock	100.00	100.00	100.00	100.00
-----	------------	--------	--------	--------	--------

Common

100	Common	100.00	100.00	100.00	100.00
-----	--------	--------	--------	--------	--------

Loose rock

100	Loose rock	100.00	100.00	100.00	100.00
-----	------------	--------	--------	--------	--------

Solid rock

100	Solid rock	100.00	100.00	100.00	100.00
-----	------------	--------	--------	--------	--------

Track material 500 ft. from track

100	Track material 500 ft. from track	100.00	100.00	100.00	100.00
-----	-----------------------------------	--------	--------	--------	--------

Track material 1000 ft. under 10,000 ft.

100	Track material 1000 ft. under 10,000 ft.	100.00	100.00	100.00	100.00
-----	--	--------	--------	--------	--------

Track material 1000 ft. under 2,000 ft.

100	Track material 1000 ft. under 2,000 ft.	100.00	100.00	100.00	100.00
-----	---	--------	--------	--------	--------

Protection of roadway:

Lateral concrete drain

25	Lateral concrete drain	25.00	25.00	25.00	25.00
----	------------------------	-------	-------	-------	-------

" concrete stone

25	" concrete stone	25.00	25.00	25.00	25.00
----	------------------	-------	-------	-------	-------

" by rubble

25	" by rubble	25.00	25.00	25.00	25.00
----	-------------	-------	-------	-------	-------

" rubble in center

25	" rubble in center	25.00	25.00	25.00	25.00
----	--------------------	-------	-------	-------	-------

Foundation excavation

25	Foundation excavation	25.00	25.00	25.00	25.00
----	-----------------------	-------	-------	-------	-------

Timber retaining walls nine

25	Timber retaining walls nine	25.00	25.00	25.00	25.00
----	-----------------------------	-------	-------	-------	-------

Walls 2 1/2' x 22' 0" high

25	Walls 2 1/2' x 22' 0" high	25.00	25.00	25.00	25.00
----	----------------------------	-------	-------	-------	-------

Piling sheet driven for protection

25	Piling sheet driven for protection	25.00	25.00	25.00	25.00
----	------------------------------------	-------	-------	-------	-------

" round " 12"

25	" round " 12"	25.00	25.00	25.00	25.00
----	---------------	-------	-------	-------	-------

Walls 10' x 400' length

25	Walls 10' x 400' length	25.00	25.00	25.00	25.00
----	-------------------------	-------	-------	-------	-------

Chain 2 1/2" links

25	Chain 2 1/2" links	25.00	25.00	25.00	25.00
----	--------------------	-------	-------	-------	-------

Timber stone

25	Timber stone	25.00	25.00	25.00	25.00
----	--------------	-------	-------	-------	-------

Old ties

25	Old ties	25.00	25.00	25.00	25.00
----	----------	-------	-------	-------	-------

Grading, heavy-suck, placed by carrier

100	Grading, heavy-suck, placed by carrier	100.00	100.00	100.00	100.00
-----	--	--------	--------	--------	--------

Grading, light-suck, placed by carrier

50	Grading, light-suck, placed by carrier	50.00	50.00	50.00	50.00
----	--	-------	-------	-------	-------

Widening

100	Widening	100.00	100.00	100.00	100.00
-----	----------	--------	--------	--------	--------

Vitrified Clay Pipe 6" to 12" diam.

75	Vitrified Clay Pipe 6" to 12" diam.	75.00	75.00	75.00	75.00
----	-------------------------------------	-------	-------	-------	-------

Good box

50	Good box	50.00	50.00	50.00	50.00
----	----------	-------	-------	-------	-------

Walls 12' high

50	Walls 12' high	50.00	50.00	50.00	50.00
----	----------------	-------	-------	-------	-------

Total for valuation section

99

1,130,661 2,200,607

ACCOUNT 5 - TUNNELS AND SUBWAYS

First Tunnel, Mile 117:

Start on 9910-94 to 9921-07:

213 ft. long, all unlined

Excavation

100	Excavation	100.00	100.00	100.00	100.00
100	Total	100.00	100.00	100.00	100.00

Second Tunnel, Mile 120:

Station 9903-22 to 9906-27:

125 ft. long, all unlined:

Excavation

100	Excavation	100.00	100.00	100.00	100.00
100	Total	100.00	100.00	100.00	100.00

Third Tunnel, Mile 121:

Station 9945-69 to 9951-57:

266 ft. long lined with timber 6", unlined 500':

Excavation

100	Excavation	100.00	100.00	100.00	100.00
-----	------------	--------	--------	--------	--------

Timber in lining including metal

50	Timber in lining including metal	50.00	50.00	50.00	50.00
----	----------------------------------	-------	-------	-------	-------

Packing

50	Packing	50.00	50.00	50.00	50.00
----	---------	-------	-------	-------	-------

Rubble masonry in portals

75	Rubble masonry in portals	75.00	75.00	75.00	75.00
----	---------------------------	-------	-------	-------	-------

Total

66	Total	66.00	66.00	66.00	66.00
----	-------	-------	-------	-------	-------

24,782 23,713

Revised page prepared by direction
of the Commission - Aug. 12, 1932

Form approved Aug. 12, 1932.

*State subject to taxation.

U.S. GOVERNMENT PRINTING OFFICE: 1932

WP-III-F-0974

BEFORE THE
SURFACE TRANSPORTATION BOARD

DUKE ENERGY CORPORATION,	)	
	)	
<u>Complainant,</u>	)	
	)	
v.	)	STB Docket No. 42069
	)	
NORFOLK SOUTHERN RAILWAY COMPANY,	)	
	)	
<u>Defendant.</u>	)	

VERIFICATION OF
MICHAEL R. BARANOWSKI

My name is Michael R Baranowski. I previously sponsored Sections III-F, III-G, III-H of the Reply Evidence of the Norfolk Southern Railway Company in this matter.

In the Reply of Defendant Norfolk Southern Railway Company to Complainant Duke Energy Corporation's Petition to Correct Technical Error, I am sponsoring Sections II and III.

I declare under the penalty of perjury that the foregoing is true and correct.
Further, I certify that I am qualified and authorized to file this testimony.

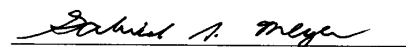
Executed on this 2nd day of December, 2003.


Michael R Baranowski

CERTIFICATE OF SERVICE

I hereby certify that, on this 2nd day of December, 2003, I served the foregoing
“Reply of Defendant Norfolk Southern Railway Company to Complainant Duke Energy
Corporation’s Petition to Correct Technical Error” by causing two (2) copies thereof to be
delivered, via hand delivery, to:

C. Michael Loftus
Christopher A. Mills
Peter A. Pfohl
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036



Gabriel S. Meyer