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December 17, 2003

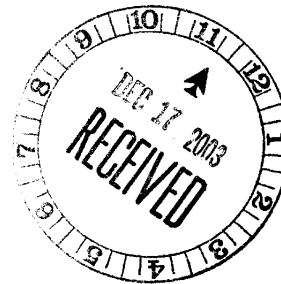
VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 711
Washington, D.C. 20423-0001

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Office of Proceedings

DEC 17 2003

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Re: Docket No. 42069, Duke Energy Corp. v. Norfolk Southern Ry.

Dear Secretary Williams:

In its Petition to Correct Technical Error dated November 18, 2003, Duke Energy Corporation ("Duke") identified technical errors in the Board's Decision served November 6, 2003, in the proceeding in eight areas: (1) bridge abutments, (2) retaining walls, (3) tunnel investment, (4) tunnel daylighting, (5) mobilization, (6) maintenance of way, (7) application of the modified straight mileage prorate to overhead movements, and (8) use of the RCAF-U to adjust stand-alone operating expenses. Norfolk Southern Railway Company's ("NS") Reply acknowledged error as to the first seven items, disagreed as to item (8), noted relatively modest quantitative disagreement as to items (1) through (4), and asserted that the Decision contained an additional technical error as to item (9) grading for NS track miles, where costs were understated. This latter item is new and thus was inappropriately included in NS's reply.

Duke has reviewed NS's calculations and concurs in NS's calculations as to items (1) through (3) and (9). The parties otherwise agree as to items (5) through (7). Accordingly, disagreement remains only as to items (4) tunnel daylighting and (8) the RCAF-U.

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With respect to item (4), Duke initially calculated an overstatement of \$21.6 million, and NS presented a figure of \$21.3 million. NS did not provide an apparent source for its revised daylighting quantity. However, Duke has reexamined the matter and has concluded that the figure in the Decision is overstated by \$22.2 million. Duke derived this figure by reviewing its rebuttal quantity and revising it to eliminate one daylighted tunnel that was listed twice and double-tracking two daylighted tunnels in accordance with the text of the Board's Decision. Duke is attaching to this letter a worksheet (which should be considered **Highly Confidential** under the Protective Order) that contains Duke's calculations.

Duke further notes that the relatively modest disagreement between Duke and NS as to the exact magnitude of technical error is not sufficient to alter the results of the DCF analysis by an appreciable amount. Correction of the improper use of the RCAF-U to adjust stand-alone operating expenses would, however, substantially alter the Decision's outcome.

If there are any questions concerning this matter, please contact the undersigned counsel for Duke.

Respectfully submitted,



William L. Slover

WLS:kaw
Enclosure (**Highly Confidential**)
cc: Paul G. Moates (w/encl.)

**Highly Confidential
Attachment Redacted**