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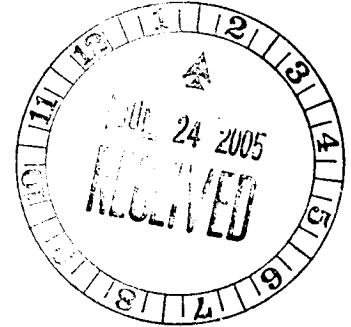
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June 24, 2005

BY HAND DELIVERY

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



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

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and ten copies of Complainant Duke Energy Corporation's Motion to Dismiss with Prejudice.

We also have enclosed an additional copy of this Motion to be date-stamped and returned to the bearer of this letter. Thank you for your attention to this matter.

Sincerely,

ENTERED
Office of Proceedings

JUN 24 2005

Part of
Public Record

C. Michael Loftus
An Attorney for Duke Energy Corporation

Enclosures

cc: Counsel for Defendant

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DUKE ENERGY CORPORATION,

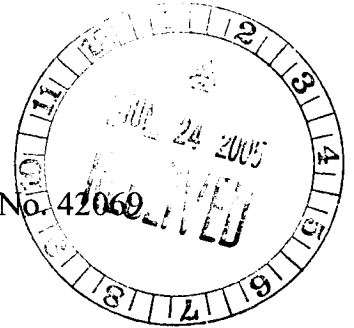
Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,

Defendant.

Docket No. 42069



COMPLAINANT'S MOTION TO DISMISS WITH PREJUDICE

Complainant Duke Energy Corporation ("Duke") and Defendant Norfolk Southern Railway Company have reached a voluntary settlement of the matters at issue in this complaint proceeding. Accordingly, Duke hereby requests that the Board enter an order dismissing, with prejudice, the complaint, including the phasing proceeding.

Respectfully submitted,

DUKE ENERGY CORPORATION

By: Paul R. Kinny
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Dated: June 24, 2005

Attorneys for Complainant

CERTIFICATE OF SERVICE

I hereby certify, that I have this 24th day of June, 2005 caused to be served copies of the foregoing Motion on counsel for Defendant Norfolk Southern Railway Company as follows:

By hand delivery to:

G. Paul Moates, Esq.
Terence M. Hynes, Esq.
Paul A. Hemmersbaugh, Esq.
Sidley Austin Brown & Wood
1501 K Street, N.W.
Washington, D.C. 20005

and by Federal Express to:

James A. Squires, Esq.
George A. Aspatore, Esq.
David A. Shelton, Esq.
Norfolk Southern Corporation
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Andrew B. Kolesar III
An Attorney for Complainant