

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
STEPHANIE M. PISANELLI
JOSHUA M. HOFFMAN

OF COUNSEL
DONALD G. AVERY

SLOVER & LOFTUS
ATTORNEYS AT LAW
1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003

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TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:

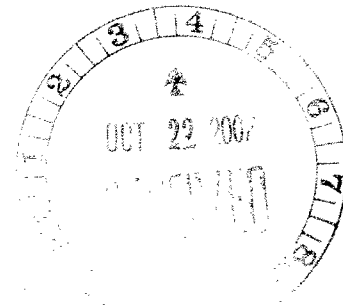
kjd@sloverandloftus.com

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October 22, 2007

BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001



Re: Docket No. 41191 (Sub-No.1), AEP Texas
North Company v. BNSF Railway Company

Dear Secretary Williams:

Enclosed for filing in the referenced proceeding, please find an executed original and twenty copies each of Complainant AEP Texas North Company's Petition for Reconsideration, and Notification in Compliance With Decision Served September 10, 2007.

An additional copy of each pleading also is enclosed. Kindly indicate receipt and filing by time-stamping these extra copies and returning them to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

Kelvin J. Dowd
An Attorney for
AEP Texas North Company

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TRANSPORTATION BOARD

Enclosures

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**SURFACE
TRANSPORTATION BOARD**

AEP TEXAS NORTH COMPANY

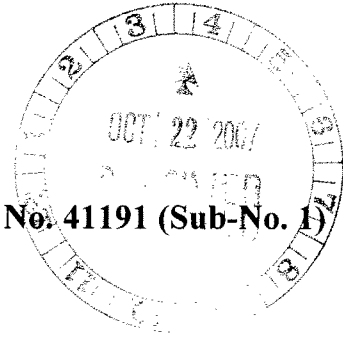
Complainant,

v.

BNSF RAILWAY COMPANY

Defendant.

Docket No. 41191 (Sub-No. 1)



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PETITION FOR RECONSIDERATION

Pursuant to 49 U.S.C. §722(c) and 49 C.F.R. Part 1115.3, Complainant AEP Texas North Company ("AEP Texas") hereby petitions for reconsideration of the Decision served in this proceeding on September 10, 2007 ("*Decision*"), on grounds of material error and changed circumstances.

In support hereof, AEP Texas shows as follows:

PREFACE AND SUMMARY

In the *Decision*, served some 49 months after the initiation of this proceeding, the Board found that AEP Texas had failed to show that the rates charged by Defendant BNSF Railway Company ("BNSF") for the transportation of coal from mines

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**SURFACE
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in Wyoming to AEP Texas' Oklahoma Generating Station near Vernon, Texas are and have been unreasonably high,¹ based on application of the stand-alone cost ("SAC") constraint of the *Coal Rate Guidelines*, as most recently interpreted and modified in Ex Parte No. 657 (Sub-No. 1), *Major Issues in Rail Rate Cases*, Decision served October 30, 2006 ("*Major Issues*"). AEP Texas submits that this result occurred because of specific errors in the Board's application of the *Guidelines*, at least one of which is exacerbated by significant, changed circumstances following the close of the evidentiary record. The matters which warrant reconsideration and correction of the *Decision* are the following:

1. The Board erred in applying the arbitrary formula for indexing stand-alone operating expenses adopted in *Major Issues*, in lieu of the methodology specifically tailored to the hypothetical Texas & Northern Railroad ("TNR") sponsored by AEP Texas.
2. The Board erred in its inclusion in the DCF calculation of the 2005 railroad industry cost of capital published in *Ex Parte No. 558 (Sub-No. 9)*, which overstates the railroads' cost of equity, and is based on a methodology that the Board has acknowledged is flawed.
3. The Board should reconsider its cost of capital findings, and reopen those findings both for modification and for inclusion of the 2006 cost of capital following the conclusion of Ex Parte No. 664, *Methodology To Be Employed In Determining The Railroad Industry's Cost of Capital*.

Each of these assignments of error and, in the case of *Ex Parte No. 664*, changed circumstances, is addressed in further detail in the balance of this Petition.

¹ The Board did find that BNSF possesses market dominance over the Oklahoma coal shipments pursuant to 49 U.S.C. § 10707, and that the Board therefore has jurisdiction over the subject rates and service. *Decision* at 5-6.

ARGUMENT

I. The Board's Approach to Indexing Operating Expenses for the TNR Was Materially Erroneous

Throughout this proceeding, AEP Texas has demonstrated the inherent and highly prejudicial inconsistency in the Board's historic practice of forecasting changes in stand-alone operating expenses using an index that includes no adjustment for expected improvements in railroad productivity, while forecasting future stand-alone revenues using an index that both assumes the existence of such productivity gains, and assumes that they would be passed along through lower rates.² In lieu of this obviously flawed approach, AEP Texas proffered an alternative methodology that avoided the internal inconsistency³ and – equally important – recognized the impact of measurable productivity gains that the TNR actually was likely to achieve. *See* AEP Op. Exhibit III-G-1 at 19-22, and Exhibit III-G-5. In the *Decision*, the Board neither acknowledged the central inconsistency in its traditional approach, nor addressed AEP Texas' alternative. *Decision* at 22, 109. Instead, it automatically applied the “hybrid” operating expense index adopted in *Major Issues*. *Id.* AEP Texas submits that this was material error.

² *See* AEP Texas Op. at III-G-20 and Exhibits III-G-1-10; AEP Texas Reb. at III-G-31 and Exhibits III-G-15-16; AEP Texas Br. at 17-19.

³ AEP Texas' approach accomplished this by incorporating the same productivity factor that was included in the EIA forecast used to project future TNR revenues into the Rail Cost Adjustment Factor otherwise used to index the TNR's operating expenses.

Long after AEP Texas had submitted its case in chief, the Board initiated the *Major Issues* proceeding.⁴ Therein, the Board addressed the question of how to index operating expenses. *Major Issues* at 39-47. While the Board considered a number of arguments regarding the proper methodology, it did not consider AEP Texas' approach, nor did it address the problem of the disparity between the conflicting indices used to forecast SARR revenues and operating expenses. Ultimately, the Board adopted a methodology that arbitrarily phases in productivity gains on a fixed, 5% incremental basis, following the first year of the SARR's operations. *Id.* at 44.

It is well established that an "agency's 'failure to respond meaningfully' to objections raised by a party renders its decision arbitrary and capricious." *PPL Wallingford Energy LLC v. Federal Energy Regulatory Comm'n*, 419 F.3d 1194, 1198 (D.C. Cir. 2005). As the D.C. Circuit noted, "unless the [agency] answers objections that on their face seem legitimate, its decision can hardly be classified as reasoned." *Id.* citing *Canadian Ass'n of Petroleum Producers v. FERC*, 254 F.3d 289, 299 (D.C. Cir. 2001). In this case, AEP Texas explained repeatedly and in detail why the Board's disparate approaches to indexing operating expenses and revenues produced a mathematical "death spiral;" *i.e.*, the former's refusal to account for productivity that the latter assumes exists and is passed through to shippers inevitably dooms the SARR to failure. However, the

⁴ What were intended to be final briefs were submitted on June 9, 2005. The Board's Notice of Proposed Rulemaking in *Major Issues* was served on February 27, 2006.

Board made no substantive response to this argument, and no mention whatsoever of AEP Texas' proposed alternative methodology, which both solved the "death spiral" problem and reasonably reflected foreseeable and measurable TNR productivity gains. Instead, it simply cross-referenced its ruling in *Major Issues*, which likewise did not respond to these objections.⁵ *Decision* at 109.

The circumstances presented here are quite different from those addressed by the Board on reconsideration in the so-called Eastern Cases.⁶ There, the Board found that although the EIA revenue forecast included productivity adjustments while the operating expense index did not, absent a better methodology for indexing expenses, the RCAF-U was still superior to the RCAF-A being advocated by the complainants because there had been no showing that linked expected productivity gains to the forecasted changes in the RCAF-A. *Eastern Reconsideration* at 17-18. The Board also suggested that it was possible that revenues and expenses would not move in lock step in the future, particularly for a SARR. *Id.* Here, AEP Texas offered a specific solution that was reflective of the productivity improvements that the TNR could be expected to achieve, and recognized on the expense side only those improvements that the EIA index projects

⁵ AEP Texas participated in *Major Issues*, and endorsed a formula for indexing operating expenses that was proposed by a coalition of coal shippers as an acceptable alternative to its own. AEP Texas did not abandon the methodology that it tailored to this case, however, and the Board never mentioned either the methodology, or the fatal inconsistency in the agency's prior approach that prompted its development.

⁶ See *Carolina Power & Light Co. v. Norfolk S. Ry.*, Docket No. 42072; *Duke Energy Corp. v. Norfolk S. Ry.*, Docket No. 42069; and *Duke Energy Corp. v. CSX Transp., Inc.*, Decisions served October 20, 2004 ("*Eastern Reconsideration*").

would be passed through to shippers on the revenue side.⁷ The Board's failure to address AEP Texas' arguments and proposed solution in any substantive way is a material error which, under *Wallingford* and similar precedents,⁸ renders the Board's handling of the issue arbitrary and capricious.

Significantly, this single error was outcome determinative in this case. As shown on Exhibit 1, if the AEP Texas methodology is substituted for the Board's hybrid index and no other changes were made to the SAC findings in the *Decision*, AEP Texas would be entitled to rate relief.

II. The Board's Inclusion of the Inflated 2005 Railroad Cost of Capital In the SAC Analysis was Material Error

It also was material error for the Board to include the 12.2% railroad industry cost of capital – which reflected a 15.2% cost of equity – that the Board calculated in Ex Parte No. 558 (Sub-No. 9), *Railroad Cost of Capital – 2005*, Decision served September 20, 2006, in the DCF calculations that underlie the *Decision*.

In its Rebuttal Second Supplemental Evidence filed on July 14, 2006, before the ruling in *Ex Parte No. 558 (Sub-No. 9)* was issued, AEP Texas pointed to the

⁷ The AEP Texas approach also avoids the problems the Board found with a similar sounding, but actually very dissimilar approach advocated by the shipper in *Public Serv. Co. of Colo. d/b/a Xcel Energy v. BNSF Ry.*, Docket No. 42057, Decision served June 8, 2004, at 32-34 (“*Xcel*”). The differences are explained in AEP Texas' Rebuttal at III-G-11-12.

⁸ *Mistick PBT v. Chao*, 440 F.3d 503, 512 (D.C. Cir. 2006); *Public Serv. Comm'n v. FERC*, 397 F.3d 1004, 1008 (D.C. Cir. 2005); *Tesoro Alaska Petroleum Co. v. FERC*, 234 F.3d 1286, 1294 (D.C. Cir. 2000).

methodological flaws inherent in the 2005 cost of equity computation then under consideration, which produced the bizarre result that the more prosperous the railroads became and the higher their revenues and profits, the farther from revenue adequacy they appeared to be. These flaws included the unsupportable assumptions that recent railroad earnings growth rates would continue into perpetuity, and that the railroad industry's growth rate could substantially exceed that of the economy as a whole year after year. *Id.* at 19-20. While the Board ignored these and similar criticisms⁹ at the time, and accepted the proposed 2005 cost of capital calculations, in August of this year the Board *validated* those criticisms, and determined that "the record compels" a new approach to the process of determining the railroads' cost of capital. *Ex Parte No. 664*, Corrected Decision served August 20, 2007 at 6.

Having acknowledged that the methodology used to calculate the 2005 cost of capital was defective and in need of reform, it was error for the Board one month *later* to insist that the flawed 2005 figure nevertheless be used in the calculation of SAC in this case. Even though the 2005 figure represents a single year in a multi-year average calculation, the magnitude by which it overstates the railroads' true cost of equity (and, thus, the cost of capital) is so significant that it is certain to have materially affected the final SAC determination and the outcome of this case.

⁹ See, e.g., *Ex Parte No. 558 (Sub-No. 9)*, Reply Comments of the Western Coal Traffic League, April 28, 2006.

Contrary to the characterization in the *Decision*, AEP Texas did not object to inclusion of the 2005 figure adopted in *Ex Parte No. 558 (Sub-No. 9)* simply because it was “hotly contested.” *Decision* at 108. AEP Texas’ objections were substantive, and squared completely with the Board’s subsequent conclusions in *Ex Parte No. 664*:

The simplicity of this DCF model, however, is the result of an assumption that the 5-year growth rate provided by the AAR will remain constant forever. But the growth rate of a particular industry can not substantially exceed the long-term growth rate of the economy indefinitely. Indeed, at the oral hearing, AAR’s expert acknowledged that the current high projected 5-year growth rates cannot be sustained. Thus, when the 5-year growth rate is high, this model will overstate the cost of equity because it assumes that the growth rate will continue forever.

Id. at 4 (footnote omitted). It was clear error for the Board to compel the use of a key SAC component that the Board already had acknowledged was the product of a flawed methodology in need of overhaul.¹⁰ See, e.g., *Columbia Falls Alum. Co. v. EPA*, 139 F.3d 914, 923 (D.C. Cir. 1998) (“An agency’s use of a model is arbitrary if that model bears no rational relationship to the reality it purports to represent.”)

Similarly erroneous is the Board’s suggestion that the 15.2% cost of equity produced by *Ex Parte No. 558 (Sub-No. 9)* somehow showed the multi-year average cost of capital proffered by AEP Texas to be an “aberration.” *Decision* at 108. Not only is it illogical in the face of the Board’s prior conclusions in *Ex Parte No. 664*, it is

¹⁰ The 2005 determination in *Ex Parte No. 558 (Sub-No. 9)* is now pending before the D.C. Circuit on petition for review. Case No. 07-1064, *Western Coal Traffic League v. Surface Transp. Bd. and United States* (Petitioners’ Brief filed September 24, 2007).

demonstrably wrong as a matter of fact. As shown on the Board's corrected Table 1 from the *Ex Parte No. 664* ruling, over the 1997-2004 time period, the average change in the cost of equity from year to year was slightly more than 0.5%, and never exceeded 1.1% (the decline between 2000 and 2001). By contrast, the single year jump from 2004 to the equity cost calculated in *Ex Parte No. 558 (Sub-No. 9)* is a full 2 percent. If there is an aberration, plainly it lies with the 2005 figure.

Finally, the Board's insistence on using the 2005 cost of capital released in *Ex Parte No. 558 (Sub-No. 9)* is flatly at odds with its rationale for applying the methodological changes adopted in *Major Issues* to this case. In response to AEP Texas' objection in that regard, the Board ruled that "we do not believe it is appropriate to apply flawed or discredited procedures" in measuring the reasonableness of BNSF's rates. *Decision* at 23. See also Docket No. 42088, *Western Fuels Ass'n, Inc. and Basin Elec. Power Coop. v. BNSF Ry. Co.*, Decision served Sept. 10, 2007 at 20 ("*WFA/Basin*"). *Ex Parte No. 664* makes clear that the formula used to compute the 2005 cost of capital is "flawed and discredited." Under the same reasoning used by the Board with respect to *Major Issues*, it was error to rely on that determination.

As shown *infra*, the Board should reconsider the *Decision* in light of the pending action in *Ex Parte No. 664*, and incorporate the 2006 cost of capital (as determined following conclusion of that proceeding) in a revised decision in this case.

The Board likewise should re-determine the 2005 cost of capital, using the same methodology.

III. Developments In *Ex Parte No. 664* Constitute Changed Circumstances That Justify Reconsideration of the Cost of Capital In This Case

The Board's decision in *Ex Parte No. 664* acknowledges what all interested parties also have recognized: that the new cost of capital methodology proposed therein represents a significant change in (and, as the Board explained, an improvement over) the regulatory approach that has been in place since 1981. *See Ex Parte No. 664* at 6. The decision also affirms the need for reform, *inter alia*, because "support for [the] DCF approach in academia, private industry, and the public sector has eroded over time." *Id.* at 4. Coming prior to the service date of the *Decision* but some four (4) months after the last evidentiary filings in this proceeding, the new rule proposed in *Ex Parte No. 664* constitutes "changed circumstances" that support reconsideration of the cost of capital determinations made in this case.

Based on historical patterns of STB decisionmaking, it would have been reasonable to expect that by the September 10, 2007 service date of the *Decision*, the Board would have made a final determination as to the 2006 rail industry cost of capital, which would have been included in the multi-year average cost of capital calculation used in this case. *Cf. Xcel*, Decision served Jan. 19, 2005, at 20. Presumably, the Board now intends to calculate the 2006 figure once it concludes *Ex Parte No. 664*. AEP Texas supports this course, as it would make little sense to base yet another cost of capital

finding on what the Board has recognized is an outmoded and inaccurate formula.¹¹ Once the Board has completed the 2006 determination, however, the results should be incorporated into a revised average cost of capital calculation for the TNR.

Board precedent confirms that a change in regulatory standards constitutes “substantially changed circumstances” for purposes of reconsideration of a coal rate decision. *See Increased Rates on Coal, BN, Montana to Superior, Wisconsin*, 362 I.C.C. 625, 627 (1980). The Board effectively applied that principle in 2006 in this case, when it reopened the record 11 days before the deadline for issuance of a final decision in order to apply the results of its deliberations in *Major Issues*. In the process, the decision was delayed for another 19 months, and the parties were compelled to submit two (2) additional rounds of supplemental evidence. Fundamental fairness now requires reconsideration and reopening to apply the new rule that emerges from *Ex Parte No. 664*, which entails neither the time nor the evidentiary burdens on the parties associated with the Board’s actions in connection with *Major Issues*.

Such fairness considerations also require that the Board restate the cost of capital for each of the prior years in the TNR average (*i.e.*, 1997-2005) using the formula ultimately adopted in *Ex Parte No. 664*. As the Board has acknowledged, not only is the DCF model that was used to compute the capital costs employed in the *Decision* “simplistic,” but a shift to a more modern methodology which commands far greater

¹¹ As discussed *supra*, the Board should reconsider its decision to use the flawed 2005 figure in this case, for the same reasons.

respect among analysts and other regulators is “a change the record compels.” *Ex Parte No. 664* at 6. When the Board concluded in *Major Issues* that the methods that had been used to allocate revenues from cross-over traffic for over 10 years were flawed and should be replaced,¹² it mandated application of the replacement methodology both in this proceeding and in *WFA/Basin*, even though the records in each already had been built based on the previous formula. *See Decision* at 11-16.¹³ Given that the ultimate outcome of this proceeding will directly affect the cost of electricity for AEP Texas’ ratepayers well into the future, the case for correcting now-acknowledged overstatements in the cost of capital data used in the *Decision* is even more compelling.

Reconsideration of the application of the corrected cost of capital for 2005 and prior years also is consistent with the Board’s and the federal courts’ approach in other cases. In *West Texas Utilities Co. v. BNSF*, seven (7) years after deciding the case, the Board accepted a BNSF-proposed correction that had a major impact on the rates being charged, ruling that “reopening is appropriate to correct a material error in the prior decision.” *See West Texas Util. Co. v. The Burlington N. & S.F.*, Decision served May 29, 2003, at 3. *See also Iowa Power & Light Co. v. United States*, 712 F.2d 1292, 1297

¹² *Major Issues* at 25, 31.

¹³ The Board offered AEP Texas a limited opportunity to supplement the record in this regard (*Decision* at 23), an option which AEP Texas is not exercising for the reasons set forth in the Notice being filed contemporaneous with this Petition. No supplemental evidence would be needed to adjust the average cost of capital for the TNR, however, as the Board has shown that the annual industry average costs of capital can be restated under the methodology proposed in *Ex Parte No. 664* using data already on file. *Id.* at 2, Table 2.

(8th Cir. 1983) *citing United Gas Improvement Co. v. Callery Prop., Inc.*, 382 U.S. 223, 229 (1965) (“The Supreme Court has recognized . . . that ‘[a]n agency, like a court, can undo what is wrongfully done by virtue of its order.’”) *See also Natural Gas Clearinghouse v. Federal Energy Regulatory Comm’n*, 965 F.2d 1066, 1074 (D.C. Cir. 1992) (Congress did not intend to bar revisions to rates where the agency committed an error that was subsequently overturned).

IV. Limiting Debt Amortization to Only 20 Years Instead of the Life of the Assets is Material Error

AEP Texas amortized the TNR’s debt in accordance with the life of the assets placed into service. This approach to amortization, as the Board noted in its *Decision*, is consistent with publicly available information concerning the practices of railroads that have obtained long-term financing for capital improvements. *Id.* at 107. Nevertheless, the Board concluded that the industry average for debt amortization was shorter than the 20 year period that it used in the *Decision*, and, therefore, it would not entertain any longer term amortization. *Id.*

The Board’s decision was materially erroneous because a stand-alone railroad is presumed to have access to the same capital markets as other railroads, and presumptively is entitled to employ any feasible strategy that would maximize efficiency and minimize cost. *See Bituminous Coal – Hiawatha, UT to Moapa, NV*, 6 I.C.C.2d 1, 71-72 (1989) (The SAC test permits a complainant to select its own debt vehicle so long as it is feasible); *Coal Rate Guidelines, Nationwide*, 1 I.C.C.2d 520, 528 *quoting* William

J. Baumol, *Contestable Markets: An Uprising in the Theory of Industry Structure* (1982) (“it is a requirement of contestability that there be no cost discrimination against entrants”). As the record demonstrated that some railroads do use longer term financing (over 30 years in some cases),¹⁴ AEP Texas met the *prima facie* test of feasibility, and SAC should have been calculated based on the life-of-assets approach, which demonstrably would result in lower costs for the TNR. *See, e.g., Duke/NS*, Decision served Nov. 6, 2003 at 14.

The Board’s restriction on the TNR’s financing flexibility is unwarranted under the SAC test. Moreover, its use of a 20-year amortization period that conveniently matches the DCF period is plainly arbitrary. To be sure, many complainants have used a 20-year period in the past, but AEP Texas’ variation on timing is consistent with real world financing; the Board’s fixed 20-year period does not even reconcile with the industry average of 13 years that the Board cited in denying AEP Texas’ approach.

The Board’s reliance on a 20-year debt amortization period is further called into question by its decision in *Major Issues*, where the Board opted to use a 10-year DCF period in future cases – a very limited time period to amortize debt for a railroad. *Id.* at 66. The Board recognized this quandary in *Major Issues*, but opted to bypass the problem at the time, arguing that the issue was beyond the scope of the proceeding. *Id.* at 65. Here it has again put off the inevitable question as to the proper period for amortization,

¹⁴ *See* AEP Texas Reb. Exhibit III-G-13.

relying instead on past decisions that did not truly address the matter to any substantive degree. A failure to decide is not reasoned decisionmaking.

Finally, AEP Texas notes that long-term financing is consistent with other far-horizon elements of the railroad industry. For example, it is not uncommon for 100-year leases and easements to be an integral part of building or purchasing a rail line. Railroad routes and designs are often selected in order to withstand 100-year floods and other potentially remote occurrences. Thus, even if the average debt cycle is shorter, AEP Texas' approach to financing reflects parallelism with other elements of the industry.

CONCLUSION

For the reasons set forth herein, the Board should reconsider the *Decision*, and upon such reconsideration serve a new decision consistent with the showings made in this Petition.

Respectfully submitted,

AEP TEXAS NORTH COMPANY
1 Riverside Plaza
Columbus, OH 43215

By: David M. Cohen
Senior Counsel
155 West Nationwide Boulevard
Suite 300
Columbus, OH 43215

OF COUNSEL:

Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

William L. Slover
Kelvin J. Dowd
Daniel M. Jaffe
Slover & Loftus
1224 Seventeenth Street N.W.
Washington, D.C. 20036
(202) 347-7170



Dated: October 22, 2007

Attorneys & Practitioners

AEP Texas - Summary of DCF Results - STB Decision

Year	Capital Requirement Road Property	Operating Expense	Annual Stand-Alone Requirement	Stand-Alone Revenues	Overpayments Or Shortfalls In Revenues	PV Difference	Cumulative PV Difference
2000*	\$ 163,783,569	\$ 208,107,973	\$ 371,891,542	\$ 384,175,596	\$ 12,284,054	\$ 12,173,809	\$ 12,173,809
2001	311,322,703	367,702,397	679,025,100	711,010,614	31,985,514	29,318,421	41,492,230
2002	317,186,997	361,425,735	678,612,732	720,952,078	42,339,346	35,157,854	76,650,084
2003	324,247,305	369,090,751	693,338,056	695,120,747	1,782,691	1,488,746	78,138,830
2004	339,360,707	397,532,808	736,893,515	723,898,071	(12,995,444)	(8,372,055)	69,766,776
2005	350,941,384	422,342,730	773,284,114	728,731,044	(44,553,070)	(24,459,533)	45,307,242
2006	367,939,500	438,830,421	806,769,921	755,063,884	(51,706,037)	(26,932,250)	18,374,992
2007	376,015,048	450,364,377	826,379,424	780,155,662	(46,223,762)	(21,690,706)	(3,315,714)
2008	382,295,658	455,409,386	837,705,044	788,224,103	(49,480,941)	(20,918,155)	(24,233,869)
2009	388,546,244	465,439,084	853,985,328	813,197,663	(40,787,665)	(15,534,286)	(39,768,155)
2010	394,684,102	470,068,772	864,752,874	825,250,588	(39,502,286)	(13,553,819)	(53,321,974)
2011	401,014,467	483,723,461	884,737,928	851,360,174	(33,377,754)	(10,317,479)	(63,639,453)
2012	409,671,795	494,543,597	904,215,392	895,746,957	(8,468,435)	(2,358,287)	(65,997,740)
2013	420,642,919	504,188,048	924,830,967	919,887,586	(4,943,381)	(1,240,208)	(67,237,949)
2014	432,119,355	512,481,741	944,601,096	939,811,521	(4,789,575)	(1,082,541)	(68,320,490)
2015	443,844,604	517,612,715	961,457,319	952,049,446	(9,407,873)	(1,915,649)	(70,236,139)
2016	455,802,723	527,800,659	983,603,382	977,635,740	(5,967,642)	(1,094,723)	(71,330,863)
2017	468,020,918	540,591,545	1,008,612,464	1,009,952,198	1,339,735	221,410	(71,109,452)
2018	480,626,849	553,196,739	1,033,823,588	1,042,664,724	8,841,135	1,316,327	(69,793,126)
2019	493,633,473	565,291,941	1,058,925,414	1,076,415,439	17,490,025	2,345,973	(67,447,152)
2020	507,054,189	585,668,303	1,092,722,492	1,126,401,309	33,678,817	4,069,738	(63,377,414)

AEP Texas - Summary of DCF Results - Based On AEP/Texas Operating Expense Index

Year	Capital Requirement Road Property	Operating Expense	Annual Stand-Alone Requirement	Stand-Alone Revenues	Overpayments Or Shortfalls In Revenues	PV Difference	Cumulative PV Difference
2000*	\$ 163,783,569	\$ 206,585,843	\$ 370,369,412	\$ 384,175,596	\$ 13,806,184	\$ 13,668,741	\$ 13,668,741
2001	311,322,703	360,206,296	671,529,000	711,010,614	39,481,615	36,149,695	49,818,435
2002	317,186,997	345,394,294	662,581,291	720,952,078	58,370,787	48,315,672	98,134,107
2003	324,247,305	338,564,095	662,811,400	695,120,747	32,309,347	24,328,382	122,462,489
2004	339,360,707	361,762,145	701,122,852	723,898,071	22,775,219	14,672,479	137,134,968
2005	350,941,384	381,070,830	732,012,214	728,731,044	(3,281,170)	(1,801,355)	135,333,613
2006	367,939,500	392,063,652	760,003,152	755,063,884	(4,939,268)	(2,572,729)	132,760,884
2007	376,015,048	398,232,185	774,247,232	780,155,662	5,908,430	2,772,557	135,533,441
2008	382,295,658	402,146,750	784,442,408	788,224,103	3,781,694	1,598,718	137,132,159
2009	388,546,244	410,629,426	799,175,670	813,197,663	14,021,992	5,340,380	142,472,540
2010	394,684,102	414,939,333	809,623,434	825,250,588	15,627,154	5,361,908	147,834,447
2011	401,014,467	426,903,371	827,917,838	851,360,174	23,442,336	7,246,318	155,080,765
2012	409,671,795	439,418,102	849,089,897	895,746,957	46,657,060	12,993,043	168,073,808
2013	420,642,919	447,656,900	868,299,819	919,887,586	51,587,767	12,942,473	181,016,281
2014	432,119,355	455,270,195	887,389,550	939,811,521	52,421,971	11,848,432	192,864,714
2015	443,844,604	460,349,428	904,194,032	952,049,446	47,855,414	9,744,412	202,609,126
2016	455,802,723	470,248,113	926,050,836	977,635,740	51,584,904	9,462,899	212,072,025
2017	468,020,918	482,816,389	950,837,307	1,009,952,198	59,114,891	9,769,571	221,841,597
2018	480,626,849	495,471,579	976,098,428	1,042,664,724	66,566,295	9,910,830	231,752,427
2019	493,633,473	507,962,098	1,001,595,571	1,076,415,439	74,819,868	10,035,744	241,788,171
2020	507,054,189	528,242,408	1,035,296,597	1,126,401,309	91,104,712	11,009,067	252,797,238

CERTIFICATE OF SERVICE

I hereby certify that on this 22 day of October 2007, I caused a copy of the foregoing Petition for Reconsideration to be served by hand delivery on counsel for BNSF, as follows:

Samuel M. Sipe, Jr.
Anthony J. LaRocca
Linda S. Stein
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795



Kelvin J. Dowd

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

	)	
	)	
AEP TEXAS NORTH COMPANY	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. 41191 (Sub-No. 1)
	)	
BNSF RAILWAY COMPANY	)	
	)	
Defendant.	)	
	)	

**COMPLAINANT'S NOTIFICATION IN
COMPLIANCE WITH DECISION SERVED
SEPTEMBER 10, 2007**

Complainant AEP Texas North Company ("AEP Texas") submits this Notification in compliance with Ordering Paragraph 4 of the Decision served in this proceeding on September 10, 2007 ("*Decision*"), as follows:

1. In the *Decision*, the Board rejected AEP Texas' challenge to the reasonableness of certain rates charged by Defendant BNSF Railway Company ("BNSF") for the transportation of coal from mines in Wyoming to AEP Texas' Oklaunion Generating Station.

2. The *Decision* applied the Board's new Average Total Cost ("ATC") methodology for allocating revenues from cross-over traffic under the stand-alone cost constraint of the *Coal Rate Guidelines*. The ATC formula was adopted in Ex Parte No. 657 (Sub-No. 1), *Major Issues In Rail Rate Cases*, Decision served October 30, 2006,

after the evidentiary record in this proceeding had been assembled. The stand-alone railroad configuration and cross-over revenue allocation evidence presented by AEP Texas had been predicated on the mileage-based revenue allocation methodology which had been used in coal rate proceedings since 1994. ATC replaced this mileage-based approach.

3. Acknowledging the potential unfairness resulting from the application of ATC in this case, the Board determined that AEP Texas should “have an opportunity to modify its SAC presentation in light of the new revenue allocation methodology.”

Decision at 23. The Board directed AEP Texas to serve notice whether it wished to submit supplemental SAC evidence (which would constitute the fourth round of supplemental evidence filed in this case) within 30 days of the *Decision*, which deadline subsequently was extended to October 22, 2007.

4. This date, AEP Texas is submitting its Petition for Reconsideration of the *Decision*, wherein AEP Texas details the material errors and changed circumstances which require the Board to reopen and re-decide this case. Based upon the specific record assembled in this proceeding, AEP Texas has determined that unless the material errors are corrected and changed circumstances properly taken into account, the submission of supplemental/revised SAC evidence in response to ATC as described in the *Decision* would not alter the outcome of this case. Therefore, AEP Texas does not intend to submit such evidence at this time.

5. This Notification is provided without waiver of or prejudice to AEP Texas' rights under 49 U.S.C. §722, and regulations promulgated thereunder.

Respectfully submitted,

AEP TEXAS NORTH COMPANY
1 Riverside Plaza
Columbus, OH 43215

By: David M. Cohen
Senior Counsel
155 West Nationwide Boulevard
Suite 300
Columbus, OH 43215

OF COUNSEL:

Slover & Loftus
1224 Seventeenth Street, NW
Washington, D.C. 20036

William L. Slover
Kelvin J. Dowd
Slover & Loftus
1224 Seventeenth Street, NW
Washington, D.C. 20036
(202) 3477170



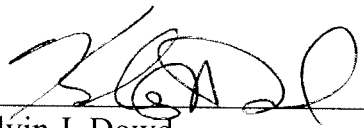
Dated: October 22, 2007

Attorneys & Practitioners

CERTIFICATE OF SERVICE

I hereby certify that on this 22 day of October 2007, I caused a copy of the foregoing Notification to be served by hand delivery on counsel for BNSF, as follows:

Samuel M. Sipe, Jr.
Anthony J. LaRocca
Linda S. Stein
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795



Kelvin J. Dowd