

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Nos. 02-1198, 02-1225

September Term, 2002

Filed On: April 30, 2003 [746611]

Union Pacific Railroad Company and Wisconsin Power
& Light Company,

Petitioners

v.

Surface Transportation Board
and United States of America,

Respondents

PETITIONS FOR REVIEW OF AN ORDER OF THE SURFACE TRANSPORTATION BOARD

BEFORE: GINSBURG, *Chief Judge*, and HENDERSON and GARLAND, *Circuit Judges*.

JUDGMENT

This cause came to be heard on the record compiled before the Surface Transportation Board and was briefed and argued by counsel. It is hereby

ORDERED AND ADJUDGED that the petitions be denied for the reasons stated in the Board's decisions. Because the Board did not on review defend its rejection of Wisconsin Power & Light's evidence of roadway ownership variable costs on the ground that Wisconsin Power did not timely file some of that evidence, we rely solely upon the alternate ground in its decision, that "the data needed to correct [Wisconsin Power's] flawed evidence ... were not available" and the Board was therefore unable to rely upon that evidence.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:

Deputy Clerk