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Via Hand Delivery

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



210 258

RE: STB Docket No. 42057, *Public Service Company of Colorado d/b/a Xcel Energy v. The Burlington Northern and Santa Fe Railway Company*

Dear Secretary Williams:

In accordance with the decision issued in this case on February 17, 2004, pleased be advised that the undersigned will appear and speak on behalf of the complainant at the oral argument scheduled for this case on March 18, 2004.

In response to paragraph 3 of the order, in the 45 minutes allotted to complainant for oral argument (minus time reserved for rebuttal), counsel for Xcel desires to emphasize the following specific points:

1. The record in this case compels a finding by the Board that Xcel has met its ultimate burden of proof of demonstrating that the rates challenged by Xcel's complaint are unreasonable under the stand-alone cost principles developed under the Coal Rate Guidelines. Throughout this proceeding defendant BNSF has misstated and misapplied the Board's rules governing the complainant's burden of proof in stand-alone cost rate cases, as well as the rules governing the proper use and role of rebuttal evidence in these cases.
2. The coal tonnages Xcel has included within the customer group of its stand-alone railroad - the Wyoming Colorado Coal Railroad ("WCC") - are appropriate and fully supported for all years in the DCF model (2001-2020). In particular, the inclusion in the WCC traffic group of coal tonnages destined for Western Resources' Jeffrey Energy Center is supported by established precedent and, in any event, Xcel has demonstrated that transporting these tons on the WCC system is reasonable and meets the needs of Western Resources.
3. There is little disagreement between the parties over the basic parameters and configuration of the WCC system. The record in this case demonstrates that WCC has more than sufficient capacity to handle the tonnages of its traffic group for the entire 20-year DCF period, and is otherwise feasible and fully supported.
4. The evidence presented by Xcel concerning the WCC operating plan demonstrates that the operating plan is feasible and fully supported.

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5. The use of the RCAF-A to forecast the change in the operating expenses of the WCC over the course of the 20-year DCF period is fully supported by evidence demonstrating that the WCC will experience significant productivity gains.
6. Xcel's movement-specific adjustments to BNSF's system average road property depreciation and investment data are entirely consistent with established precedent. BNSF's continued attempts to argue that its FADB and PISNU databases are unsuitable for such adjustments constitute the improper relitigation of settled matters. Moreover, BNSF's newest argument for using its system average road property depreciation and investment data to calculate BNSF's variable costs is wholly unsupported and has no merit.

If there are other specific issues that the Board would like complainant to be prepared to address, or any questions about the foregoing, please do not hesitate to contact the undersigned. Otherwise, counsel will look forward to the Board's questions on the above-described issues and any other matters that arise during oral argument.

Sincerely,



Thomas W. Wilcox
Counsel for Complainant

Cc Counsel for Defendant