

SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
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
KAREN HASSELL HERREN

204464

January 17, 2002

TELEPHONE:
(202) 347-7170

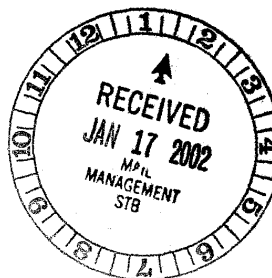
FAX:
(202) 347-3619

WRITER'S E-MAIL:

cam@sloverandloftus.com

VIA HAND DELIVERY

The Hon. Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Unit
1925 K Street, N.W.
Washington, D.C. 20423-0001



ENTERED
Office of the Secretary

JAN 18 2002
Part of
Public Record

Re: Docket No. 42056, Texas Municipal Power
Agency v. The Burlington Northern and
Santa Fe Railway Company

Dear Secretary Williams:

Our firm represents the shipper-complainants in several coal maximum-rate cases, including Docket No. 42056 ("TMPA"). The TMPA case, in which both opening and reply evidence has now been filed, is the first subject to the new evidentiary format prescribed by the Board's decision served March 12, 2001, in Ex Parte 347 (Sub-No. 3), General Procedures for Presenting Evidence in Stand-Alone Cost Rate cases.

In filing its opening and reply evidence, TMPA adhered to the prescribed new evidentiary format. The opening evidence of the defendant (BNSF) completely ignored the new format. BNSF's reply evidence (filed on January 15, 2002) contained a Narrative that followed the prescribed outline, but also included 13 verified statements. Although the statements appear to replicate BNSF's Narrative in many respects, presumably they are in some way different or they would not have been filed. The inclusion of these statements is unauthorized and appears to contradict the Board's stated goal in enacting the new format, which was to standardize and simplify filings in SAC rate cases thereby enabling the Board to process such cases more efficiently.

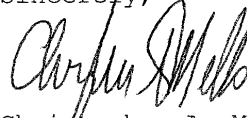
Rebuttal evidence in the TMPA case is due February 25, 2002. TMPA assumes that the Board will not consider the unauthorized separate verified statements to be part of the record under the Board's rules. Accordingly, TMPA does not intend to submit

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separate rebuttal verified statements responding to those filed by BNSF, and seeks confirmation that the failure to do so will not be construed by the Board as a failure of proof in any respect.

We also believe that an order from the Board advising that the filing of separate verified statements is inappropriate will foster the Board's goals of standardizing SAC case filings and achieving more efficient processing by avoiding future filings such as BNSF's. Conversely, if the Board does not intend to require adherence to its new rules, parties should be made aware of this so that, like BNSF, they may adopt some other format if they prefer.

Sincerely,



Christopher A. Mills

CAM:lma

cc: Chairman Morgan
Vice Chairman Burkes
Director Konschnik
General Counsel Hansen
Samuel L. Sipe, Jr. (counsel for BNSF in No. 42056)