

204850

**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. PROHL  
DANIEL M. JAFFE  
KAREN HASSELL HERREN

ENTERED  
Office of the Secretary February 26, 2002

FEB 27 2002

Part of  
Public Record

TELEPHONE:  
(202) 347-7170

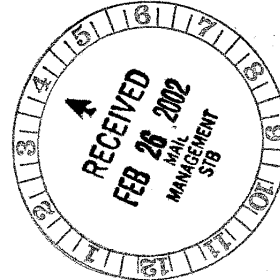
FAX:  
(202) 347-3619

WRITER'S E-MAIL:

jhl@sloverandloftus.com

**VIA HAND DELIVERY**

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



Re: STB Docket No. NOR 42059, *Northern States  
Power Company Minnesota D/B/A Xcel Energy v.  
Union Pacific Railroad Company*

Dear Secretary Williams:

Following up on its letter filing of February 15, 2002 Complainant Northern States Power Company ("NSP") hereby withdraws its Motion to Compel documents responsive to Request For Production 20.e. Subsequent to the filing of that letter, Defendant Union Pacific Railroad Company ("UP") produced the missing Train Performance Simulator materials.

On February 20, 2002, UP filed a letter responding to NSP's February 15, 2002 letter. Despite the fact that the purpose of NSP's letter was to limit the scope of its pending Motion to Compel, UP's responsive letter launches into an invective-laden attack on NSP, accusing NSP of engaging in "obfuscation," making "gratuitous" and "inaccurate remark[s]" resorting to "false posturing," etc. UP's self-serving tirade has no basis in fact and the Board should ignore it.

UP also accuses NSP of delaying this case by not agreeing to reactivate the procedural schedule now. This is a frivolous contention given the current posture of this case. NSP has repeatedly informed UP that it is amenable to reactivating the procedural schedule after the Board rules on NSP's pending

Mr. Vernon A. Williams  
February 26, 2002  
Page 2

Motion to Compel and discovery in this case is completed. This approach comports with recent Board precedent and common sense. See e.g., Arizona Electric Power Cooperative, Inc. v. The Burlington Northern and Santa Fe Ry. and Union Pacific Railroad Co., STB Docket No. 42058 (Decision served Dec. 31, 2001) at 8 (directing parties to propose a procedural schedule after "discovery is completed"); Texas Municipal Power Agency v. The Burlington Northern and Santa Fe Ry., STB Docket No. 42056 (Decision served Feb. 9, 2001) at 9 (suspending procedural schedule and directing parties to submit a new schedule "[a]s soon as discovery is completed....").

NSP is enclosing ten duplicate copies of this letter for filing. Kindly date stamp the extra copy and return it to our messenger.

Respectfully submitted,



John H. LeSeur  
An Attorney for  
Northern States Power Company

JHL:cef

cc: Eric C. Bosset, Esq. (via hand delivery)  
    Louise A. Rinn, Esq. (via overnight delivery)