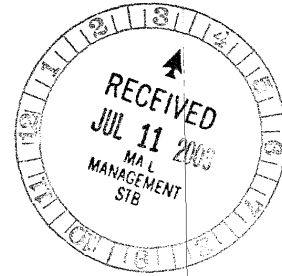


208350



July 11, 2003

VIA HAND DELIVERY

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

RECEIVED
Office of Proceedings

JUL 11 2003

Part of
Public Record

Re: Docket No. 42059, Northern States Power Company Minnesota
D/B/A Xcel Energy v. Union Pacific Railroad Company

Dear Secretary Williams:

Enclosed for filing jointly on behalf of Complainant Northern States Power Company and Defendant Union Pacific Railroad Company are a signed original and 10 copies of the "Joint Petition to Hold Proceedings in Abeyance."

In view of the nature of the relief requested in the Joint Petition, the parties request that the Board accord it *expedited handling and consideration*. Please address any questions concerning this submission to the undersigned counsel. Thank you for your assistance with this matter.

Very truly yours,



John H. LeSeur
Christopher A. Mills
Peter A. Pfohl
Slover & Loftus
1224 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 347-7170

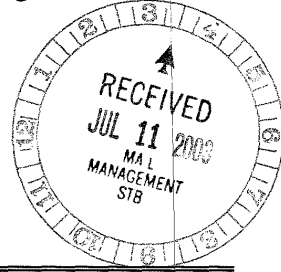
Attorneys for Complainant
Northern States Power Company



Carolyn F. Corwin
Michael L. Rosenthal
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
(202) 662-6000

Attorneys for Defendant
Union Pacific Railroad Company

208350



EXPEDITED CONSIDERATION REQUESTED

BEFORE THE
SURFACE TRANSPORTATION BOARD

NORTHERN STATES POWER COMPANY)
MINNESOTA D/B/A XCEL ENERGY)

Complainant,)

v.)

UNION PACIFIC RAILROAD COMPANY)

Defendant.)

Docket No.42059

ENTERED
Office of Proceedings
JUL 11 2003
Part of
Main Record

JOINT PETITION TO HOLD PROCEEDINGS IN ABEYANCE

Bruce A. Colt
Senior Attorney
Xcel Energy, Inc.
800 Nicollet Mall, Suite 2900
Minneapolis, MN 55402
(612) 215-4587

John H. LeSeur
Christopher A. Mills
Peter A. Pfohl
Slover & Loftus
1224 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys for Complainant
Northern States Power Company

Dated: July 11, 2003

J. Michael Hemmer
Louise A Rinn
Union Pacific Railroad Company
1416 Dodge Street
Omaha, Nebraska 68179
(402) 271-3309

Carolyn F. Corwin
Michael L. Rosenthal
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
(202) 662-6000

Attorneys for Defendant
Union Pacific Railroad Company

BEFORE THE
SURFACE TRANSPORTATION BOARD

NORTHERN STATES POWER COMPANY	)	
MINNESOTA D/B/A Xcel Energy	)	

Complainant,

v.

Docket No. 42059

UNION PACIFIC RAILROAD COMPANY	)	
--------------------------------	---	--

Defendant.

JOINT PETITION TO HOLD PROCEEDINGS IN ABEYANCE

Complainant Northern States Power Company ("NSP") and Defendant Union Pacific Railroad Company ("UP") hereby jointly petition the Board for an expedited order directing that this maximum coal rate reasonableness complaint proceeding be held in abeyance, and that further processing of the complaint (including service of a decision on the merits) be temporarily suspended, to and including July 31, 2003, in order to afford the parties adequate time to complete necessary documentation of a tentative settlement agreement they have reached to resolve the dispute that is the subject of this proceeding. In support of this Joint Petition, NSP and UP state as follows:

In this complaint proceeding, NSP challenges the reasonableness of UP's common carrier rates for the transportation of coal between UP-served Wyoming origins and NSP's King and Black Dog electric generating stations located in Minnesota. NSP's complaint also challenges the reasonableness of UP's common carrier rates for the transportation of Montana

coal UP delivers from interchange in the Twin Cities to NSP's King plant. NSP's complaint seeks prescription of reasonable common carrier rates and an award of reparations for coal shipments made by NSP under the challenged rates since January 1, 2001.

UP and NSP have recently reached tentative agreement on terms for settlement of the rate dispute in this proceeding and for voluntary dismissal of NSP's complaint with prejudice. The parties are working diligently to complete the final negotiation and documentation of the proposed settlement. The parties agree, however, that further action by the Board in processing the complaint, including service of a final written decision on the merits of the complaint, could impair – and potentially threaten – their ability successfully to complete final negotiation and documentation of the proposed settlement. Accordingly, UP and NSP request that the Board temporarily hold the proceeding in abeyance and suspend further processing of the case (including service of any decision on the merits), for a period to and including July 31, 2003, pending the completion of the parties' proposed settlement.

The parties expect that the proposed settlement will be concluded, and that a motion to dismiss the complaint with prejudice will be filed by NSP, on or before July 31, 2003. If these matters are not concluded by that date, however, UP and NSP on that date will advise the Board in writing of the progress they have made in concluding the settlement and what further action (if any) they may request the Board to take at that time.

The parties' request for an order temporarily holding this proceeding in abeyance, and suspending further processing of the case, pending the conclusion of the parties' settlement discussions is consistent with the practice of the Board and its predecessor agency, the Interstate Commerce Commission ("ICC"), in similar circumstances. *See, e.g., Potomac Electric Power*

Company v. CSX Transportation, Inc., STB Docket No. 41989 (STB served May 12, 1998); *Pennsylvania Power & Light Co. v. Consolidated Rail Corp.*, STB Docket No. 41295 (STB served July 10, 1997 & Oct. 3, 1997); *North Carolina Railroad Co. – Petition to Set Trackage Compensation & Other Terms & Conditions – Norfolk Southern Railway Co.*, STB Finance Docket No. 33134 (STB served May 29, 1997); *Belize Air International, Ltd. v. Transcontinental Freight Systems, Inc.*, ICC Docket No. 41029 (ICC served Mar. 4, 1994); *Shenango Inc. v. Pittsburgh, Chartiers & Youghiogeny Railway Co.*, ICC Docket No. 40068 (ICC decided March 21, 1989). As the ICC explained in *Shenango, supra*, at 1:

[W]e encourage mutually-agreeable settlement of cases before us. Delaying the issuance of our final decision at complainants' request may facilitate a settlement in this proceeding and will not harm any party.

Granting the parties' request to temporarily hold this complaint proceeding in abeyance, and to withhold issuance of any decision on the merits of NSP's complaint, will facilitate a privately negotiated resolution of the parties' dispute and will not prejudice any party.

For these reasons, NSP and UP jointly request the Board to enter an expedited order directing that this complaint proceeding be held in abeyance, and that further processing of the complaint (including service of a decision on the merits) be suspended, to and including July 31, 2003, pending conclusion of the parties' proposed settlement.

Respectfully submitted,

Bruce A. Colt
Senior Attorney
Xcel Energy, Inc.
800 Nicollet Mall, Suite 2900
Minneapolis, MN 55402
(612) 215-4587

John H. LeSeur *JHL*
Christopher A. Mills
Peter A. Pfohl
Slover & Loftus
1224 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys for Complainant
Northern States Power Company

Dated: July 11, 2003

J. Michael Hemmer
Louise A Rinn
Union Pacific Railroad Company
1416 Dodge Street
Omaha, Nebraska 68179
(402) 271-3309

Carolyn F. Corwin *Michael Rosenthal / pg*
Michael L. Rosenthal
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
(202) 662-6000

Attorneys for Defendant
Union Pacific Railroad Company