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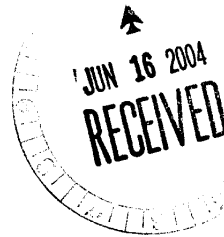
WRITER'S E-MAIL:

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June 16, 2004

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, D.C. 20423



Re: Docket No. 41191 (Sub-No. 1), West Texas Utilities Company
v. The Burlington Northern and Santa Fe Railway Company

Dear Secretary Williams:

Enclosed for filing in the referenced proceeding please find an original and ten copies of Complainant AEP Texas North Company's ("AEP Texas") Petition to Extend Due Date for Rebuttal Evidence. Because this Petition is being filed only three weeks before rebuttal evidence is due under the present schedule, AEP Texas requests that the Board give this filing **EXPEDITED CONSIDERATION**. BNSF has authorized AEP Texas to represent that BNSF does not object to the proposed 21-day extension.

An additional copy of this pleading also is enclosed. Please indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your prompt attention to this matter.

Sincerely,

Christopher A. Mills

CAM:dmb
Enclosures

cc: David M. Konschnik
Counsel for BNSF

EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

211359

AEP TEXAS NORTH COMPANY)

Complainant,)

v.)

THE BURLINGTON NORTHERN AND)
SANTA FE RAILWAY COMPANY)

Defendant.)

Docket No. 41191 (Sub-No.1)

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PETITION TO EXTEND DUE DATE FOR REBUTTAL EVIDENCE

Complainant AEP Texas North Company ("AEP Texas") hereby requests that the Board modify the remainder of the present procedural schedule for this case, as established in the Board's Decision served January 13, 2004, by extending the due date for rebuttal evidence by 21 days, *i.e.*, from July 6 to July 27, 2004.

The modest, three-week extension sought by AEP Texas is justified by several factors, including in particular several AEP Texas requests for supplemental workpapers supporting BNSF's Reply Evidence and the interests of both parties and the Board in ensuring that the record in this case fully reflects the Board's recent *Xcel* decision.¹

¹ Docket No. 42057, *Public Service Company of Colorado D/B/A Xcel Energy v. The Burlington Northern and Santa Fe Railway Company* (STB served June 8, 2004.)

AEP Texas' review of BNSF's very sizeable Reply filing, which consisted of two volumes of narrative evidence, one volume of exhibits, six volumes of hardcopy workpapers, and nine CD-ROMs containing electronic workpapers, prompted four requests for additional or supplemental workpapers. While BNSF has made timely responses to these requests, additional time is needed to evaluate the new information and incorporate it into AEP Texas' rebuttal presentation. A three-week extension of the due date for rebuttal evidence is warranted for this purpose.

In addition, on June 8, 2004 the Board served its decision in the *Xcel* case, which is the first rate decision involving a Western coal movement to be issued by the Board in over a year. The *Xcel* case involved the same defendant, a portion of the same SARR route, and a portion of the same SARR traffic group as the instant proceeding. AEP Texas submits that the integrity of the record in this case will be enhanced if both parties have an adequate opportunity to fully reflect the Board's findings and rulings in *Xcel* in their rebuttal submissions here. There is precedent for this approach. In Docket No. 42051, *Wisconsin Power and Light Company v. Union Pacific Railroad Company*, Decision served April 24, 2000, the Board extended the due date for opening evidence *sua sponte*, for the following reasons:

This proceeding is likely to involve many of the same issues that were raised in another pending proceeding, FMC Wyoming Corporation and FMC Corporation v. Union Pacific Railroad Company, STB Docket No. 42022 (FMC). Indeed, it appears likely that the stand-alone railroad (SARR) to be posited in this proceeding will resemble the SARR in FMC. . . The final decision [in FMC] will resolve the issues common to both proceedings and, in all likelihood, will provide substantial guidance to the parties and to the Board on the appropriate presentation and resolution of stand-alone cost issues to the extent the SARRs and their respective traffic are similar.

Under the circumstances, the parties and the Board will benefit from having a final decision in FMC available before the parties submit their opening presentations. . . .

Id. at 1. The Board went on to extend the due date for opening evidence until approximately five weeks after the expected service date of the *FMC* decision.

BNSF has authorized AEP Texas to represent that BNSF does not object to the extension requested herein.

Respectfully submitted,

AEP TEXAS NORTH COMPANY
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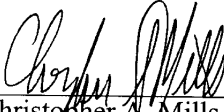
Dated: June 16, 2004

Attorneys & Practitioners

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2004, I caused a copy of the foregoing Petition to be served by hand delivery on counsel for BNSF, as follows:

Samuel M. Sipe, Jr.
Anthony J. LaRocca
Linda S. Stein
Steptoe & Johnson, L.L.P.
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