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August 14, 2002

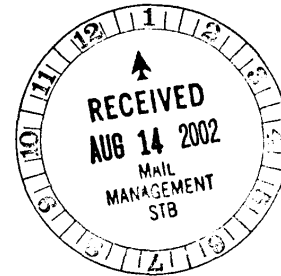
BY HAND

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

ENTERED
Office of Proceedings

AUG 14 2002

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:

On August 8, 2002, Northern States Power Company Minnesota ("NSP") responded to an earlier Union Pacific Railroad Company ("UP") letter addressing whether the Board would prescribe rates from origins from which no traffic has moved under challenged rates. NSP appears to misunderstand UP's position. We submit this brief response to ensure that UP's position is clear.

UP does not contest the Board's jurisdiction to prescribe rates where the challenged rates have been established in a UP tariff.¹ UP simply wishes to confirm its understanding of the Board's decision in Wisconsin Power and Light.² We believe that case reflects Board policy not to make revenue-to-variable cost determinations absent evidence from actual movements under the challenged rate. We seek confirmation of this understanding so that neither party will waste resources developing evidence that the Board will not consider.

¹ The issue in this case is thus different from the issue in Arizona Electric Power Cooperative, where UP has argued that a complainant may not challenge rates that UP offered but never established. See Arizona Electric Power Cooperative, Inc. v. The Burlington Northern & Santa Fe Ry., STB Docket No. 42058, UP's Petition to Clarify the Colorado Rate Dispute, filed Apr. 22, 2002, pp. 6-8.

² Wisconsin Power & Light Co. v. Union Pacific Railroad Co., STB Docket No. 42051 (STB served Sept. 13, 2001), slip op. at 7 & n.2.

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August 14, 2002
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Thank you for your attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Rosenthal". The signature is fluid and cursive, with the first name "Michael" being more prominent than the last name "Rosenthal".

Michael L. Rosenthal

*Attorney for Union Pacific
Railroad Company*

cc: John H. LeSeur, Esq.