

BEFORE THE  
SURFACE TRANSPORTATION BOARD

PUBLIC SERVICE COMPANY OF  
COLORADO D/B/A XCEL ENERGY

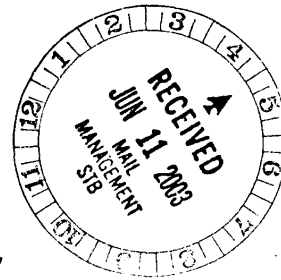
Complainant,

v.

THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY

Defendant.

208036  
Docket No. 42057



ENTERED  
Office of Proceedings

JUN 11 2003

Part of  
Public Record

**DEFENDANT'S REPLY TO COMPLAINANT'S PETITION  
FOR ORDER DIRECTING SIMULTANEOUS CLOSING BRIEFS**

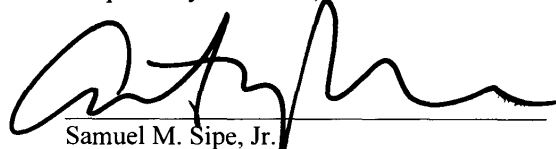
Defendant The Burlington Northern and Santa Fe Railway Company ("BNSF") hereby replies to the Petition for Order Directing Simultaneous Closing Briefs of Complainant Public Service Company of Colorado d/b/a Xcel Energy ("Xcel") filed on May 28, 2003. In that Petition, Xcel seeks an order that the parties in the above-captioned proceeding should file simultaneous closing briefs and that the briefs should be filed within 30 days of the Board's decision on Xcel's Petition. BNSF agrees that final briefs are appropriate in this proceeding, that the final briefs should be filed simultaneously and that the briefs should be filed within 30 days of a Board order. Xcel also requests that the Board impose a 25-page limit on the briefs. For the reasons set out below, BNSF submits that a 40-page limit on the briefs would be more appropriate.

The Board has found that final briefs are helpful in SAC cases because they allow the parties to define the areas of dispute on complex issues and thereby facilitate the Board's resolution of the outstanding issues. *See, e.g., Texas Municipal Power Agency v. The Burlington*

*Northern and Santa Fe Ry. Co.*, STB Docket No. 42056, slip op. at 1 (served May 28, 2002). To fulfill these objectives, the parties need to have sufficient space in a final brief to address adequately the issues that are critical to the Board's resolution of the case. In three recent SAC cases, the Board established a 40-page limit on final briefs. *See Duke Energy Corp. v. Norfolk Southern Ry. Co.*, STB Docket No. 42069, *Duke Energy Corp. v. CSX Transportation, Inc.*, STB Docket No. 42070, and *Carolina Power & Light Co. v. Norfolk Southern Ry. Co.*, STB Docket No. 42072 (served Dec. 13, 2002). While the Board has established 25-page limits on final briefs in some prior SAC cases, BNSF believes that a 40-page brief is more appropriate given the number of issues that must be resolved in a SAC proceeding and the complexity of those issues.

For the foregoing reasons, BNSF supports Xcel's request that the Board issue an order directing the parties simultaneously to file closing briefs within 30 days of the service date of the Board's decision, but requests that the Board impose a 40-page limit on final briefs.

Respectfully submitted,



Richard E. Weicher  
Michael E. Roper  
THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY  
2500 Lou Menk Drive  
Forth Worth, TX 76131

Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Brooke L. Gaede  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 429-6486

ATTORNEYS FOR THE BURLINGTON  
NORTHERN AND SANTA FE RAILWAY  
COMPANY

June 11, 2003

**CERTIFICATE OF SERVICE**

I hereby certify that on June 11, 2003, I caused a copy of the foregoing Defendant's Reply to Complainant's Petition for Order Directing Simultaneous Closing Briefs to be served by hand upon the following counsel for Public Service Company of Colorado d/b/a Xcel Energy:

Thomas W. Wilcox  
Michael H. Higgins  
David E. Benz  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036



Brooke L. Gaede