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July 22, 2003

Via Hand Delivery

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



RE: STB Docket No. 42057, *Public Service Company of Colorado d/b/a Xcel Energy v. The Burlington Northern and Santa Fe Railway Company*

Dear Secretary Williams:

The purpose of this letter is to respectfully ask the Board, on behalf of complainant Xcel Energy, to act on the Petition for Order Directing Simultaneous Closing Briefs filed by Xcel in this proceeding on May 28, 2003. On June 11, 2003, BNSF responded to the Petition and indicated that it agreed with Xcel that final briefs are appropriate in this case. The only difference between the parties is the length of such final briefs, should the Board order them to be filed. Xcel Energy seeks a page limit of 25 pages, while BNSF seeks a limit of 40 pages.

Because the Board has previously determined that it does not consider the evidentiary record in stand-alone cost cases to be closed until any ordered final briefs are filed,<sup>1</sup> the failure to inform the parties (1) whether final briefs are to be filed in this case; and (2) the length of and timing for filing such briefs, is further delaying a final determination of the reasonableness of the rates Xcel Energy has complained of.

This case has been pending before the Board since December 20, 2000, and since January 1, 2001 Xcel has been paying what it believes are punitively high rates for rail service to its Pawnee generating station while this case has been processed. Xcel is therefore keenly interested in finally closing the record in this proceeding and obtaining final resolution of the issues presented in its complaint.

Accordingly, Xcel respectfully requests that the Board issue a decision regarding the filing of final briefs in this case at its earliest opportunity to do so.

Sincerely,

Thomas W. Wilcox  
Counsel for Complainant

cc: David M. Konschnik, Esq.  
Counsel for Defendant  
Bruce A. Colt, Esq.

ENTERED  
Office of Proceedings

JUL 22 2003

Part of  
Public Record

<sup>1</sup> See e.g., Docket No. 42056, *Texas Municipal Power Agency v. The Burlington Northern & Santa Fe Railway Company*, decision served March 24, 2003; and Docket No. 42051, *Wisconsin Power & Light Co. v. Union Pacific Railroad Company*, decision served September 13, 2001 (In both cases, the Board did not close the record for purposes of 49 U.S.C. §10704(c)(1) until the final briefs were filed).