

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

Anthony J. LaRocca
202.429.8119
alarocca@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steptoe.com

ENTERED
Office of Proceedings

APR 21 2004

Part of
Public Record

April 20, 2004



210653

Via HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 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:

I am writing on behalf of the defendant in this proceeding, BNSF, to address an erroneous statement in Complainant's Reply to BNSF's Post-Argument Brief, filed by Xcel on April 12, 2004. At pages 2-3 of that Reply Brief, Xcel addresses BNSF's argument that the Board should exclude the Jeffrey movement from the SAC analysis because, among other things, there is no evidence that the SARR could provide service over its alternative route that is equal or superior to the service provided by the incumbent over the real world route of movement. Xcel states in its Reply Brief that "[t]he record in this case outlines in great detail the many reasons why the WCC easily meets the needs of Western Resources at [Jeffrey], not the least of which is that the cycle times calculated by both BNSF and Xcel for the WCC's movement from Eagle Butte and Belle Ayr to and from Northport are faster than the real-world cycle times for BNSF's movement of this traffic to and from the Eagle Butte and Belle Ayr mines to Northport." Xcel Reply Brief at 2-3 (citations omitted). To support this statement, Xcel cites a BNSF electronic workpaper that supposedly shows "a cycle time of 37.4 hours for Eagle Butte originations and 34.7 hours for Belle Ayr originations moving to [Jeffrey]." Id.

Xcel either knows or should know that BNSF never calculated a cycle time for the movement of Jeffrey trains on the SARR. As BNSF explained in detail in its Reply evidence and Argument, BNSF's operating plan and cycle time assumptions were based on a traffic group that did not include the Jeffrey movements. The electronic spreadsheet to which Xcel refers does not reflect BNSF's calculation of the transit times that would be experienced by the Jeffrey trains. That spreadsheet sets out the average transit times, by SARR segment, generated by BNSF's RTC model for the trains that BNSF included in its operating plan. See BNSF's reply electronic workpaper "transit times by segment.xls." BNSF's RTC analysis was based on BNSF's revised

The Honorable Vernon A. Williams
April 20, 2004
Page 2

traffic group that did not include any Jeffrey trains. It would be incorrect to assume that the average cycle times calculated by BNSF's RTC analysis could be achieved if the traffic group was expanded to include the Jeffrey trains. To the contrary, the addition of any Jeffrey trains would inevitably cause train conflicts that would slow down train movements across the system or cause the system to gridlock.

Xcel's representation that BNSF calculated cycle times for the Jeffrey trains is inaccurate and misleading.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony J. LaRocca', with a long horizontal flourish extending to the right.

Anthony J. LaRocca

cc: Counsel for Complainant