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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:

This letter responds to the letter submitted to the Board on April 20, 2004 by counsel for BNSF. In the first place, BNSF's letter is an unauthorized "reply to a reply" in violation of 49 C.F.R. 1104.13(c). Second, despite BNSF's continued efforts to try to make additional arguments and to get in the last word on issues in this case, the evidence in this case speaks for itself. The BNSF workpapers cited by Xcel clearly indicate the transit times that BNSF would have applied for the movement of Jeffrey Energy Center trains from the Eagle Butte and Belle Ayr mines to Northport, Nebraska, using its RTC model but for the fact that BNSF had forced the train count for this movement to equal zero.

The improper additional argument by counsel in the letter on how the Board should interpret BNSF's evidence should be rejected. If the Board accepts BNSF's letter, then Xcel responds by reiterating the arguments it made in its post-argument briefs—that BNSF's overbuilt stand-alone system could easily accommodate the approximately two loaded trains and two empty trains per day associated with the Jeffrey movement, and that even if the addition of these trains caused the overall transit times to slow down, the revised transit times for the Jeffrey traffic developed by the RTC model would still be significantly less than BNSF's real-life Jeffrey transit times.

Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Sincerely,

Thomas W. Wilcox
Counsel for Complainant

cc: Counsel for Defendant

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