

211800

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

August 12, 2004

Via HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

ENTERED
Office of Proceedings

AUG 12 2004

Part of
Public Record



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:

Pursuant to 49 CFR §1119.1, attached is a verified certificate of compliance indicating that The Burlington Northern and Santa Fe Railway Company has complied with the Board's June 8, 2004 order in the above-referenced matter. This certificate is being served by hand on the complainant in this proceeding.

Respectfully submitted,

Anthony J. LaRocca

Counsel for The Burlington Northern and
Santa Fe Railway Company

cc: Counsel for Complainant w/ attachment

ENTERED
Office of Proceedings

AUG 12 2004

Part of
Public Record

CERTIFICATE OF COMPLIANCE

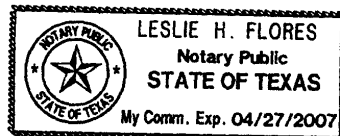
I, Michael E. Roper, Senior General Attorney for The Burlington Northern and Santa Fe Railway Company (BNSF), hereby certify that BNSF has complied with the STB's June 8, 2004 order in Docket No. 42057 to establish and maintain rates, effective as of August 9, 2004, for the movement of coal from certain Wyoming Powder River Basin mines to the Pawnee Generating Station that do not exceed the maximum reasonable rates prescribed by the June 8, 2004 decision. Attached is the revised Common Carrier Pricing Authority No. 90043-B which reflects the rates established pursuant to the STB's decision.

Michael E. Roper
Michael E. Roper

Subscribed and sworn to before me on this 12th day of August, 2004.

Leslie H. Flores
Notary Public

My Commission expires:



**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
COMMON CARRIER PRICING AUTHORITY BNSF 90043-B**

Effective Date: August 9, 2004.

Expiration Date: December 31, 2004.

Commodity: Raw sub-bituminous Coal, STCC 11-21-Series (excluding artificially dried or processed coal).

Origins: Wyoming Powder River Basin Mines listed in Attachment A, subject to diversion restrictions identified below.

Destination: Pawnee Steam Generating Station located near Brush, CO.

Route: BNSF Direct.

Rate(s): **\$7.93 in U.S. Dollars per net ton** of coal in shipper supplied cars with a minimum average lading per car of 100 tons per car.

\$7.71 in U.S. Dollars per net ton of coal in shipper supplied cars with a minimum average lading of 116 tons per car.

Minimum Annual Volume:

The aforementioned rate is subject to a minimum annual volume of 2,000,000 tons per year. In the event the minimum annual volume is not achieved, fallback rates of **\$10.28 per net ton** and **\$10.00 per net ton** respectively shall apply retroactively, and accounting shall be made within 30 days following the end of the calendar year in which retroactive application is required.

Railcar Supply and Tender Requirements:

Shipper provided railcars shall be suitable for loading not less than 100 net tons of coal per steel carload. Shipper provided railcars shall be suitable for loading not less than 116 net tons of coal per aluminum carload. The minimum tender for a train of shipper railcars is 118 such railcars and a maximum tender of 123 railcars.

Claims for damage to or destruction of shipper railcars shall be handled in accordance with the procedures set forth in the field manual and office manual of the Association of American Railroads Interchange Rules, as amended from time-to-time. Notwithstanding the foregoing BNSF shall not be liable for loss or damage caused by defects in design, materials, or workmanship of Shipper-supplied equipment or otherwise due events of force Majeure to improper loading or unloading performed by Shipper, its agent, contractor or consignee.

Trainload and Railcar Weights:

Freight charges will be assessed on the basis of the applicable minimum weight per trainload or the actual weight of coal per trainload whichever is greater. Weights shall be ascertained at origin by shipper, its agent, or the coal mine operator, at no charge to BNSF, and will be provided to BNSF via either electronic data interchange or facsimile upon release of a loaded train. BNSF shall have the right to inspect and certify the origin scales. The minimum weight per trainload is 11,800 net tons of coal for steel cars and 13,688 net tons for aluminum cars.

**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
COMMON CARRIER PRICING AUTHORITY BNSF 90043-B**

Loading:

Shipper or its agent shall be responsible for the provision of appropriate loading facilities. All cars in each shipment shall be tendered to BNSF (or its agent or contractor) for loaded movement within four (4) hours of Actual or Constructive placement for loading at origin ("Loading Free Time"). Shipper shall pay a charge per hour or fraction thereof that a train is held in excess of loading free time as published in Tariff BNSF 6041-series.

Unloading:

Shipper or its agent shall be responsible for the provision of appropriate unloading facilities. All cars in each shipment shall be tendered to BNSF (or its agent or contractor) for empty movement within six and one half (6.5) hours of Actual or Constructive Placement for unloading at destination ("Unloading Free Time"). Shipper shall pay a charge per hour or fraction thereof that a train is held in excess of loading free time as published in Tariff BNSF 6041-series.

Accessorial Services:

Coal unit train accessorial services and charges therefor, other than specified in this common carrier authority, shall be as described in BNSF Authority 6041-Series or successors thereto, except that no change in destination shall be permitted.

Billing and Payment:

BNSF will bill each shipment under the terms of the Uniform Straight Bill of Lading. All railcars for each shipment are to be billed on one (1) Bill of Lading. This Common Carrier Authority BNSF 90043-B, correct address and patron code must be shown on the bill of lading to insure accurate billing. Freight charges will be billed by BNSF and paid by shipper within fifteen (15) days of receipt of invoice by wire transfer. In the event that shipper does not make timely payment, or if adverse credit conditions occur, which in BNSF's judgement could affect shipper's ability to meet payment terms, BNSF may require shipper to pay cash in advance of service for all amounts for which shipper is liable under this Common Carrier Authority.

Other Provisions:

Shipments made under the provisions of this Common Carrier Authority are subject to the Uniform Freight Classification ("STCC") 6000-Series or its successor, applicable tariffs, statutes, federal regulatory rules and regulations, AAR rules, and other accepted practices within the railroad industry as may be amended from time-to-time.

Shipments shall be deemed to be in service to the Origin served by the immediately preceding shipment; provided, however, diversion to any other qualified Origin as set forth in Attachment A, is authorized without additional charge to Shipper, in the event reasonable notice (by telephone or otherwise) is given to BNSF operating personnel prior to departure of empty trains from Shipper's Pawnee facility of intention to divert the empty train to a specifically identified alternate Origin.

The rates set out in this Common Carrier Authority are subject to the June 18, 2004 agreement between Public Service Company of Colorado d/b/a Xcel Energy and The Burlington Northern and Santa Fe Railway Company.

**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
COMMON CARRIER PRICING AUTHORITY BNSF 90043-B**

**Attachment A
(BNSF 90043-B)**

Wyoming Powder River Basin Coal Origins

COAL MINE	BNSF ORIGIN
Antelope	Converse Jct.
Belle Ayr	Belle Ayr Jct.
Black Thunder	Thunder Jct.
Buckskin	Buckskin Jct.
Caballo	Caballo Jct.
Caballo Rojo	Rojo Jct.
Cordero	Cordero Jct.
Dry Fork	Dry Fork Jct.
Eagle Butte	Eagle Jct.
Jacobs Ranch	Jacobs Jct.
North Antelope / Rochelle	Nacco Jct.
North Rochelle	Rochelle
Rawhide	Rawhide Jct.