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SEC

SERVICE DATE - JULY 12, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33862

PUBLIC SERVICE COMPANY OF COLORADO--CONSTRUCTION EXEMPTION--
PUEBLO COUNTY, CO

Decided: July 7, 2000

By petition filed on April 14, 2000, the Public Service Company of Colorado (PSCo) seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct a line of railroad, approximately 1,500 feet in length, to serve its Comanche Power Station in Pueblo County, CO. PSCo states that the proposed line will connect with Union Pacific Railroad Company's (UP) line and will cross The Burlington Northern and Santa Fe Railway Company's (BNSF) track.¹

On May 4, 2000, BNSF filed a motion to dismiss the construction exemption, arguing that the line that PSCo purposes to construct is a spur or industrial track exempt from the Board's jurisdiction under 49 U.S.C. 10906. PSCo replied to BNSF's motion on May 23, 2000.

The petition for exemption and the motion to dismiss raise issues that require consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 10502(b) to consider PSCo's petition and the issues raised in BNSF's motion. At this time, there does not appear to be a need for the parties to submit additional evidence.

It is ordered:

1. Under 49 U.S.C. 10502(b), a proceeding is instituted to consider PSCo's petition and BNSF's motion to dismiss.
2. The proceeding will be completed by April 12, 2001.

¹ On May 19, 2000, PSCo filed a petition under 49 U.S.C. 10901(d) in STB Finance Docket No. 33862 (Sub-No. 1), Public Service Company of Colorado--Petition For Crossing Authority Pursuant to 49 U.S.C. 10901(d), seeking authority to cross track owned by BNSF in the construction of the line. A decision on the crossing petition is pending the Board's approval of a final exemption authorizing the construction.

3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary