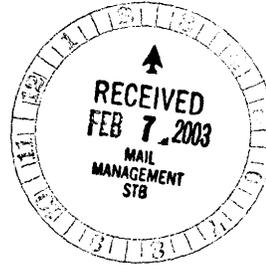


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February 7, 2003

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 undersigned counsel for the complainant in the captioned proceeding is in receipt of BNSF's "Motion for Summary Disposition and Stay," filed yesterday in this docket. This pleading critiques certain aspects of Xcel Energy's Opening Evidence and asks the Board to draw certain conclusions and take certain actions. BNSF has asked for expedited consideration of its filing.

Xcel is still reviewing this filing, which BNSF admits is not contemplated by the Board's procedural rules, and which Xcel notes is not authorized by the procedural schedule established for this proceeding. However, a detailed reading of this pleading is not needed to conclude that, at most, it is a preliminary reply to Xcel's Opening Evidence that has been filed well in advance of the April 4, 2003 deadline established by the Board for filing such replies in this proceeding. As such, this filing should be *sua sponte* either (1) rejected by the Board as premature; or (2) simply placed in the evidentiary record of this proceeding and BNSF's requests for affirmative relief should be denied as premature, given that two more rounds of evidence have yet to be completed in this case.

Either of the aforementioned actions could and should be taken by the Board. Subject to receiving notice that the Board has so acted, the undersigned informs the Board that Xcel will prepare a formal response to BNSF's pleading within the time period allotted by the Board's procedural rules.

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

Sincerely,

Thomas W. Wilcox

Thomas W. Wilcox
Counsel for Complainant

cc: Counsel for Defendant

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