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BEFORE THE SURFACE TRANSPORTATION BOARD

ARIZONA PUBLIC SERVICE COMPANY,)
 and PACIFICORP)
)
 Complainants)
)
 v.)
)
 THE BURLINGTON NORTHERN AND)
 SANTA FE RAILWAY COMPANY)
)
 Defendant)

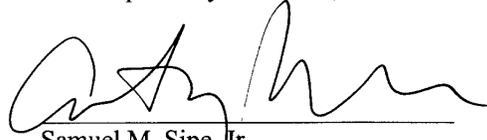
Docket No. 42091
 ENTERED
 Office of Proceedings
 JAN 06 2004
 Part of
 Public Record

DEFENDANT'S REPLY TO PETITION TO HOLD IN ABEYANCE PENDING JUDICIAL REVIEW

Defendant The Burlington Northern and Santa Fe Railway Company ("BNSF") hereby replies to the Petition To Hold In Abeyance Pending Judicial Review, filed by complainants Arizona Public Service Company ("APS") and Pacificorp on December 17, 2004. In that Petition, complainants request that the Board defer consideration of complainants' challenge to the reasonableness of BNSF's rates for the transportation of coal from the McKinley and Lee Ranch mines in New Mexico to complainants' Cholla electric generating facilities pending the resolution of complainants' appeal of the Board's May 12, 2003, October 14, 2003 and December 13, 2004 decisions in Docket No. 41185, *Arizona Public Service Company and Pacificorp v. The Burlington Northern and Santa Fe Railway Company*. Complainants filed a petition to review those decisions with the United States Court of Appeals for the District of Columbia Circuit on December 17, 2004.

BNSF does not oppose complainant's petition to hold in abeyance the proceedings in the above-captioned rate reasonableness case pending resolution of complainants' judicial appeal. However, BNSF takes this position based on its expectation that complainants will comply promptly with the Board's order in the December 13, 2004 decision in Docket No. 41185 that complainants compensate BNSF for the difference between the \$6.91 rate BNSF sought to charge and the \$4.21 rate held in place pursuant to the Board's May 12, 2003 order, with applicable interest.

Respectfully submitted,



Samuel M. Sipe, Jr.
Anthony J. LaRocca
Linda S. Stein
STEPTOE & JOHNSON, LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 429-3000

Richard E. Weicher
Michael E. Roper
THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

January 6, 2005

*Attorneys for The Burlington Northern
and Santa Fe Railway Company*

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2005, I caused a copy of the foregoing Defendant's Reply To Petition To Hold In Abeyance Pending Judicial Review to be served by hand upon the following counsel:

C. Michael Loftus
Frank J. Pergolizzi
Andrew B. Kolesar III
Peter A. Pfohl
Kendra A. Ericson
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036



Anthony J. LaRocca