

Voting Conference, May 3, 2005

Statement of Melanie Yasbin
Staff Attorney, STB Office of Proceedings

Public Service Company of Colorado d/b/a Xcel Energy

v.

BNSF Railway Company
STB Docket No. 42057

Good morning Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

In a decision served on June 8, 2004, the Board found that BNSF Railway Company (BNSF) was charging an unreasonably high rate to haul coal from the Powder River Basin to a captive power plant near Brush, CO. The Board, therefore, ordered the railroad to pay reparations to the shipper, Public Service Company of Colorado doing business as Xcel Energy (Xcel), and prescribed the maximum lawful rate the railroad could charge in the future. The Board addressed technical errors in a decision served on December 14, 2004 and petitions for reconsideration in a decision served on January 19, 2005.

Xcel has filed a petition to correct technical and computational errors in the reconsideration decision. Specifically, Xcel asserts that we double-counted transportation costs for sub-ballast and that updates to the cost of capital for 2002 and 2003 did not flow appropriately through the discounted cash flow model. BNSF filed a reply, arguing that we did not err in our sub-ballast transportation cost calculation but agreeing with Xcel on the cost of capital issue.

In the reconsideration decision, the Board agreed with BNSF that the construction materials could not be transported to the job sites using the rail line to be replicated by the stand-alone railroad as Xcel had proffered. To correct this error, the Board accepted BNSF's evidence on transportation costs for construction materials, including sub-ballast, which were computed using a mileage-based procedure.

After reviewing the prior decisions in this proceeding, the draft decision points out that Xcel's per-ton cost for sub-ballast accepted in the June 8, 2004 decision was a delivered price. By adding a mileage-based transportation cost to sub-ballast in the reconsideration decision, we inadvertently double-counted the cost for transportation of sub-ballast. The draft decision before you corrects that technical error by removing BNSF's transportation cost for sub-ballast, and the error related to the cost of capital. The draft decision thus corrects both of the technical errors identified by Xcel.

That concludes my statement, if you have any questions we will be happy to answer them.