

STB DOCKET NO. 42057

PUBLIC SERVICE COMPANY OF COLORADO D/B/A XCEL ENERGY
v.
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY

Decided December 13, 2004

The Board makes certain technical corrections to its decision issued in this proceeding on June 8, 2004.

BY THE BOARD:

In this proceeding, the Public Service Company of Colorado d/b/a Xcel Energy (Xcel) challenged the reasonableness of the rates charged by The Burlington Northern and Santa Fe Railway Company (BNSF) for movements of coal from origins in the Powder River Basin (PRB) of Wyoming to Xcel's Pawnee steam electric generating plant near Brush, CO. In *Public Service Company of Colorado d/b/a Xcel Energy v. The Burlington Northern and Santa Fe Railway Company*, 7 S.T.B. 589 (2004)(*June '04 Decision*), the Board found that BNSF has market dominance over that transportation and that the challenged rate is unreasonably high based upon a stand-alone cost (SAC) analysis. The Board prescribed maximum reasonable rates through the year 2020 and awarded reparations to Xcel.

On June 23, 2004, BNSF filed a petition to correct technical and computational errors in the *June '04 Decision*, to which Xcel filed a response on July 13, 2004. On June 28, 2004, both parties also filed timely motions for reconsideration. This decision corrects the technical errors in the *June '04 Decision*. The pending motions for reconsideration will be addressed in a subsequent decision.

PROCEDURES FOR TECHNICAL CORRECTIONS

Xcel objects to BNSF's filing two post-decisional petitions addressing technical and substantive errors. Xcel points out that our regulations provide for a single "petition for reconsideration," which must be filed within 20 days, must state in detail the reasons for the requested relief, and may not exceed 20 pages in length. See 49 CFR 1115.3. Xcel notes that the new practice of filing a separate petition on technical errors, allowed in *Duke Energy Corp. v. Norfolk S. Ry.*, 7 S.T.B. 394 (2004), has opened up an avenue by which a party who is dissatisfied with the decision has an unlimited number of pages to try to change it. Xcel asks the Board to provide guidance on how parties should bring technical and computational errors to our attention.

In complex rate cases such as this, parties are encouraged to bring

computational or technical errors to the Board's attention. In recent SAC cases, the parties have uncovered errors in the spreadsheets that had been provided by the parties and relied upon by the Board, as well as technical mistakes made by the Board itself in its calculations. The Board is committed to promptly correcting any such technical errors. At the same time, procedural guidance is appropriate to ensure that this correction process is not misused to circumvent the Board's regulations regarding petitions for reconsideration.

In the future, parties to SAC cases may file a separate petition to correct technical and computational errors within 20 days of the Board's decision. However, to ensure that this process is limited to matters clearly requiring technical corrections and does not become an avenue for addressing substantive issues, a petition to correct technical errors should be submitted by the parties jointly. The petition should include all of the information needed to correct the error(s) identified. Because a petition to correct technical errors is limited to matters that are technical errors, they need not be lengthy. The Board is not prepared to prescribe a page limitation before experience is gained in how long a joint submission needs to be to clearly explain the errors and set forth the proposed corrections. Matters that are not technical errors should be addressed in a petition for reconsideration rather than a petition to correct technical errors.

DISCUSSION

The Board's analysis of the various technical and computational errors identified by the parties is set forth below.

Capacity Factors

Several plants in the traffic group used in the SAC analysis in this case are served by more than one carrier, and each party's evidence in this case limited future traffic growth to those plants to BNSF's share of the traffic. BNSF points out that, in the Board's spreadsheets, this constraint was not applied. Xcel asserts that this was not a computational or technical error, suggesting that the Board purposely (albeit implicitly) used a different methodology from that agreed upon by the parties. This was a technical error, as the Board had intended to apply the constraints used by the parties in their evidence. Because the tonnages were overstated, the incremental investment needed to handle these tonnages was also overstated. Both of those errors are corrected here.

Rate Escalation

The parties agree that the Board applied the wrong rate escalation provisions to several plants in the traffic group. That error is corrected here, using the relevant rate forecasts to which the parties had agreed.

Tonnage Calibration

In the *June '04 Decision*, the Board adjusted the 2001 operating expenses to reflect the addition of the Jeffrey Energy Center (JEC) traffic. The decision stated (at 31-32) that adding the JEC traffic would increase the traffic group by 6.1% on a ton-mile basis in 2001. Accordingly, certain of the base-year operating statistics were increased by that same percentage. *See June '04 Decision* at 58. BNSF points out that the Board understated the incremental operating expenses attributable to the JEC traffic, and that the percent increase should be 12.68% rather than 6.1%. This was a technical error. BNSF's system-wide gross-ton miles (GTMs) were inadvertently used as the denominator to calculate these incremental operating expenses instead of employing the GTMs of just the traffic group. That error is corrected here.

Xcel in its response notes that JEC provides its own railcars, so that the railcar operating expenses would not increase as a result of the addition of the JEC traffic. Xcel's point appears valid. Therefore, the railcar expense is not increased in the revised JEC calibration. But because BNSF has not had an opportunity to respond to Xcel's point, it may file a supplemental pleading within 20 days if it believes this is not a proper adjustment.

Locomotive Maintenance Expenses

To calculate the locomotive maintenance expense, the Board applied the maintenance cost per locomotive unit mile or LUM (\$0.5190) to the *actual* total locomotive unit miles (10,556,011). This followed BNSF's approach for calculating locomotive maintenance expense.

On reconsideration, BNSF notes that the total LUMs figure used equated to an average of 6,614 LUMS per month for each of the 133 SD70 locomotives, but the SD70 locomotive maintenance contract on which both parties based locomotive maintenance expenses contains a monthly minimum maintenance charge based on 9,000 LUMs per locomotive. BNSF therefore asks that the Board's calculation be revised to use the 9,000 minimum figure instead of the 6,614 actual figure for monthly LUMs. Xcel agrees to this correction. Accordingly, the locomotive maintenance expense is adjusted here.

MOW Track Geometry Testing

The parties agree that the Board understated track geometry costs by using Xcel's track geometry testing cost in the Board's spreadsheet calculation, even though the Board had concluded (*June '04 Decision* at 660) that BNSF's track geometry testing cost should be used. The spreadsheet is corrected to correspond with the decision.

Construction Costs

The parties agree that the Board failed to convert all instances of the 15-foot main line track centers contained in the Board's spreadsheet to 25-foot track centers in the restatement of grading costs. The decision stated (at 91) that the Board accepted the 25-foot track centers, but not all of the cells in the spreadsheet were converted to reflect the 25-foot track centers. This was a technical error that is corrected here.

BNSF also points out that the Board understated Guernsey Yard costs by failing to account for yard tracks spaced greater than 15 feet apart. The Board accepted BNSF's Guernsey Yard configuration (*June '04 Decision* at 623), but did not account for the wider track. This is a technical error. In this decision BNSF's revised square footage is used for the Guernsey Yard, based on 1-foot fill, but including a wider track spacing.

Fine Grading

BNSF notes that the Board erred by not including fine grading costs for all of the yards. The Board agrees that they should have been included for all of the yards. In addition, the parties agree that the Board overstated fine grading costs by applying BNSF's subgrade unit costs for fine grading to all fine grading quantities, rather than using a separate and lower unit cost for fine grading on side slopes. Those errors are corrected here.

Relocation of Highway 59

BNSF points out that the Board did not include the removal and relocation costs of Highway 59 in the Bill Yard calculations. The Board had agreed with BNSF that the Bill Yard had to be situated in a location different from the current Bill Yard, which is not owned by BNSF (*June '04 Decision* at 671-672). Therefore, the costs for excavation and relocation of Highway 59 should have been included. That oversight is corrected here.

Grade Separations

BNSF has pointed out that, while the *June '04 Decision* explained (at 694) the extent to which grade separation costs should be reflected in the SAC analysis, the unit cost was not discussed, and the Board applied different unit-cost figures for grade separations north of Bridger Junction than for grade separations south of that point. The Board intended to use Xcel's unit-cost evidence, as that evidence was supported and BNSF failed to show why that evidence should not be used. Thus, BNSF's unit-cost figure should not have been used for grade separations south of Bridger Junction, and that technical error is corrected here.

Calculation of Costs for Mine Spurs

The parties agree that the Board did not reconcile the number of mine spur miles between the decision and the spreadsheets. This was a technical error that is corrected here.

Earthworks for Sterling Yard

BNSF argues that the Board failed to include any track miles for the Sterling Yard. However, the Board's spreadsheets and those submitted by BNSF show the same number of track miles for the Sterling Yard. Thus, no adjustment is necessary.

Headquarters Building

Xcel points out that the size of the headquarters building was not reduced to reflect the lower staffing levels that were used by the Board. The cost for the headquarters is adjusted here as proposed by Xcel. But because BNSF has not had an opportunity to respond, it may file a supplemental pleading within 20 days if it believes this is not a proper adjustment.

Material Costs

Xcel points out that the Board did not properly reflect the final quantities of several track construction items (rail, rail anchors, ties, tie plants, spikes, and ballast) in calculating material costs. This was a technical error that is corrected here.

Compromise Joints

Xcel points out that the Board failed to exclude costs for compromise joints, as it had stated it would (*see June '04 Decision* at 682). This error is corrected here.

Yard Acreage

Xcel argues that the yard acreage that was accepted (*see June '04 Decision* at 89) was too high, because the Board had concluded there would be no need for a car repair facility and the headquarters building would be smaller. While Xcel is conceptually correct that less acreage would be needed because certain buildings and facilities could be smaller or eliminated, it has not quantified how to restate yard acreage. Therefore, the Board lacks the information upon which to make an adjustment.

DCF Model

The parties agree that the Board did not properly update the discounted cash flow (DCF) analysis after inputting the final data, and that the Board failed to use the appropriate calculation for insurance in years 2 through 20 of the DCF period. Those errors are corrected here.

In its response to Xcel's petition for reconsideration, BNSF identified two additional DCF technical errors. First, the Board used the wrong inflation index for materials and supplies for the years 2005-2020. Second, the Board did not include any asset inflation when calculating the cost to replace depreciated assets. These errors are corrected here. But because Xcel has not had an opportunity to respond, it may file a supplemental pleading within 20 days if it believes this is not a proper adjustment.

RESULTS OF CORRECTED ANALYSIS

Table 1 below shows the initial tonnage and revenue calculations that were used in the *June '04 Decision* and the corrected tonnage and revenue calculations used here.

Table 1
Tonnage & Revenues

	Tonnage		Revenues	
	Initial	Corrected	Initial	Corrected
2001	105,342,807	105,342,807	\$341,477,705	\$341,477,705
2002	111,632,796	111,632,796	358,775,710	358,775,710
2003	120,472,800	120,472,800	366,028,034	366,028,034
2004	118,333,589	118,333,598	370,345,809	370,341,116
2005	120,431,677	120,225,656	385,542,577	384,730,094
2006	122,594,121	122,388,099	402,400,312	401,501,336
2007	123,335,265	123,069,471	408,324,961	407,291,830
2008	121,221,213	120,958,658	410,930,356	409,890,072
2009	122,874,151	121,975,478	426,639,187	423,649,172
2010	123,449,938	122,224,576	440,318,908	436,210,057

2011	124,120,666	122,460,343	452,176,208	446,451,327
2012	125,941,142	123,222,087	465,952,905	456,568,208
2013	127,049,961	123,680,760	482,480,431	470,356,234
2014	127,402,910	123,681,624	495,964,611	482,147,265
2015	128,303,376	124,153,043	514,939,751	498,971,994
2016	129,836,352	124,939,067	539,503,383	520,004,200
2017	129,847,262	124,767,502	550,198,588	529,542,104
2018	129,477,938	124,415,281	564,040,055	542,872,803
2019	130,842,388	125,253,304	579,733,654	556,166,689
2020	131,850,506	125,557,644	\$598,369,674	\$571,713,276

Table 2 below shows the initial operating cost findings used in *June'04 Decision*, and the corrected operating costs used here.

Table 2
2001 Operating Costs
(\$ millions)

	Initial	Corrected
Train & Engine Personnel	\$23.3	\$24.7
Locomotive Ownership	19.2	20.4
Locomotive Maintenance	9.7	12.6
Locomotive Operations	40.2	42.7
Railcar	2.5	2.4
Materials & Supply Operating	0.9	0.9
Ad Valorem Tax	2.1	2.1
Operating Managers	5.9	5.9
General & Administrative	10.4	10.4
Training & Recruitment	12.3	12.8
Loss & Damage	0.2	0.2
Maintenance-of-Way	25.8	25.1
UP Trackage Rights Fees	3.6	3.6
Insurance	5.4	5.7
TOTAL	\$161.7	\$169.6

Table 3 below shows the initial road property investment findings used in the *June'04 Decision*, and the corrected road property investment findings used here.

Table 3
Construction Costs
(\$ millions)

	Initial	Corrected
Land	\$18.4	\$18.4
Roadbed Preparation	265.3	278.8
Track	356.5	356.5
Tunnels	23.9	23.9
Bridges and Culverts	95.5	95.9
Signals & Communications	76.8	76.8
Buildings & Facilities	41.2	40.8
Public Improvements	23.2	21.1
Mobilization	21.1	21.6
Engineering	88.2	89.4
Contingencies	99.2	100.5
Subtotal	\$1,109.3	\$1,123.7
Calibration for Additional Tonnage	\$150.4	\$104.0
TOTAL	\$1,259.8	\$1,227.7

The results of the corrected discounted cash flow calculations are shown in *Table 4* below. Based on the corrected calculations, the expected revenues from the selected traffic group would exceed the present value of the total revenue requirements of the stand-alone railroad by \$517 million.

Table 4
Discounted Cash Flow Analysis
(\$ millions)

Year	SARR Revenue Requirements	Forecasted Revenues	Difference	Present Value	Cumulative Difference
2001	\$298	\$341	\$43	\$43	\$43
2002	\$295	\$359	\$64	\$57	\$100
2003	\$316	\$366	\$50	\$40	\$140
2004	\$321	\$370	\$49	\$34	\$174
2005	\$331	\$385	\$53	\$34	\$208
2006	\$342	\$402	\$59	\$34	\$241
2007	\$351	\$407	\$56	\$29	\$271
2008	\$356	\$410	\$54	\$25	\$296
2009	\$365	\$424	\$58	\$24	\$321
2010	\$374	\$436	\$62	\$24	\$344
2011	\$383	\$447	\$64	\$22	\$366
2012	\$393	\$457	\$64	\$20	\$386
2013	\$402	\$470	\$68	\$19	\$405
2014	\$411	\$482	\$71	\$18	\$423
2015	\$421	\$499	\$78	\$18	\$440
2016	\$432	\$520	\$88	\$18	\$458
2017	\$442	\$530	\$88	\$16	\$475
2018	\$451	\$543	\$92	\$15	\$490
2019	\$463	\$556	\$93	\$14	\$504
2020	\$474	\$571	\$97	\$13	\$517

Table 5 below sets forth the corrected SAC rate. As explained in the *June '04 Decision*, the maximum reasonable rate is the higher of the SAC rate or the 180% R/VC rate floor (to be determined by the parties in accordance with that decision). Both the rate prescription and reparations ordered in the *June '04 Decision* are modified accordingly.

Table 5
SAC Rate

Year	Steel Tariff Rate	Alum. Tariff Rate	SAC Rate Reduction	Steel SAC Rate	Alum. SAC Rate
2001 1Qtr	\$9.24	\$8.98	12.79%	\$8.06	\$7.83
2001 2Qtr	9.16	8.91	13.00%	7.97	7.75
2001 3Qtr	9.19	8.93	12.66%	8.03	7.80
2001 4Qtr	9.18	8.92	12.50%	8.03	7.81
2002 1Qtr	9.16	8.90	18.10%	7.50	7.29
2002 2Qtr	9.16	8.90	18.49%	7.47	7.25
2002 3Qtr	9.16	8.90	18.29%	7.48	7.27
2002 4Qtr	9.16	8.90	16.15%	7.68	7.46
2003	9.34	9.08	13.61%	8.07	7.84
2004	9.55	9.28	13.21%	8.28	8.05
2005	9.78	9.51	13.86%	8.43	8.19
2006	10.05	9.77	14.79%	8.56	8.33
2007	10.28	9.99	13.83%	8.86	8.61
2008	10.52	10.22	13.19%	9.13	8.87
2009	10.77	10.47	13.75%	9.29	9.03
2010	11.01	10.70	14.27%	9.43	9.17
2011	11.26	10.94	14.26%	9.65	9.38
2012	11.52	11.20	14.01%	9.90	9.63
2013	11.78	11.45	14.50%	10.07	9.79
2014	12.05	11.72	14.70%	10.28	10
2015	12.33	11.99	15.54%	10.41	10.13
2016	12.61	12.23	16.87%	10.49	10.17
2017	12.90	12.54	16.57%	10.77	10.46
2018	13.20	12.83	16.86%	10.98	10.67
2019	13.50	13.13	16.71%	11.25	10.94
2020	\$13.82	\$13.43	17.04%	\$11.47	\$11.14

7 S.T.B.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The *June '04 Decision* is modified as set forth above.
2. This decision is effective January 13, 2005.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.