## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

	ter of Formal Complaint iled by Scott Anderson,	)	FORMAL	COMPLAINT	NO.	1236	
		)					
	Complainant,	)					
VS.		)		ORDER			
		)					
	Northern Railroad	)					
Company,		)					
	Respondent.	)	ENTERED	: FEBRUAR	₹Y 2.	1993	

BY THE COMMISSION:

## OPINION AND FINDINGS

On February 1, 1993, a Motive Power and Equipment (MPE) Inspection Report (I.D. No. 72610) was filed by Federal Railroad Administration (FRA) MPE Chief Inspector A.G. Reinig and FRA MPE Specialist Mike Micek and by FRA-certified Nebraska PSC MPE Inspector Charles Faulder.

The inspection report identified three (3) infractions by the Burlington Northern Railroad Company (BN) with regard to the operation of remote-controlled locomotive engine No. 604 in the BN Havelock Car Shop area in Lincoln, Nebraska. Said infractions were in violation of Part 229 of Chapter 49 of the Code of Federal Regulations, to wit: Section 53, brake gauges improperly located; Section 46, inability of remote operator to make emergency brake application; Section 125(c), headlight not equipped with dimmer device.

Because the deficiencies found in the operation of the remote-controlled locomotive complained of herein pose a risk to the safety of railroad employees and the general public traversing any public roadway crossed by said locomotive, the Commission finds pursuant to its authority under <a href="Neb">Neb</a>. <a href="Rev">Rev</a>. <a href="Stat">Stat</a>. <a href="Section 75-401">Section 75-401</a> that an order should be issued ordering the BN to cease and desist from further operating the remote-controlled locomotive until such time as the locomotive is brought into compliance with the federal regulations, specifically 49 C.F.R. 229.

## ORDER

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that the Burlington Northern Railroad Company hereby cease and desist from further operating remote-controlled locomotive engine No. 604 in the Havelock Car Shop area in Lincoln, Nebraska, until such time as the defects complained of herein are corrected and the locomotive is brought into compliance with the federal regulations codified in 49 C.F.R. 229.

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MADE AND ENTERED at Lincoln, Nebraska, this 2nd day of February, 1993.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

//s//Duane D. Gay
//s//James F. Munnelly
//s//Daniel G. Urwiller

COMMISSIONERS DISSENTING: //s//Rod Johnson //s//Frank E. Landis, Jr.

ATTEST:

executive Director