

SERVICE DATE – LATE RELEASE DECEMBER 23, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42088

WESTERN FUELS ASSOCIATION, INC., AND
BASIN ELECTRIC POWER COOPERATIVE

v.

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: December 23, 2004

By complaint filed and served on defendant The Burlington Northern and Santa Fe Railway Company (BNSF) on October 19, 2004, Western Fuels Association, Inc. and Basin Electric Power Cooperative (collectively, WFA) allege that the carrier's rates for the movement of coal from origins in the Powder River Basin of Wyoming to WFA's Laramie River electric generating station, located near Moba Junction, WY, are unreasonably high. WFA alleges that BNSF possesses market dominance over the traffic and requests that maximum reasonable rates be prescribed along with other relief.

By letter filed on December 23, 2004, Clyde J. Hart, Jr., the Board appointed mediator for this proceeding, has requested that the mediation process be extended through January 31, 2005. Mediator Hart states that both WFA and BNSF have agreed to the extension. The mediator reports that productive meetings have been held and states that an extension of the mediation period may help the parties reach an agreeable resolution of this matter.

Under 49 CFR 1109.4(e), the Board will entertain requests to extend mediation, but only if all parties agree to seek an extension. Given that both parties support continuing mediation and good cause for an extension of the mediation period has been shown, the extension will be granted. The Board prefers privately negotiated settlements and appreciates both the mediator's efforts and the parties' attempts to resolve what is essentially a commercial dispute in a mediated setting.

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

It is ordered:

1. The request to extend the mediation period is granted and mediation is extended through January 31, 2005.

2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary