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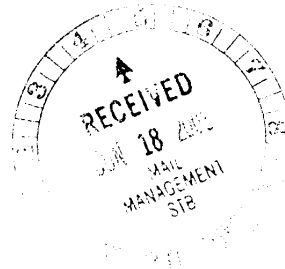
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June 18, 2003

BY HAND DELIVERY

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 711  
Washington, D.C. 20423-0001

208116



Re: Docket No. 41191, West Texas Utilities Company v.  
The Burlington Northern and Santa Fe Railway Company

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and ten copies of the Petition for Leave to Intervene and the Petition for Reconsideration of the Western Coal Traffic League, along with a check in the amount of \$150.00 to cover the requisite filing fee.

An additional copy of each filing is enclosed. Please indicate receipt and filing by time-stamping these copies and returning them to the bearer of this letter.

Sincerely,

A handwritten signature in cursive script that reads 'Andrew B. Kolesar III'.

Andrew B. Kolesar III

Enclosures

cc: Parties of Record

BEFORE THE  
SURFACE TRANSPORTATION BOARD

208116

WEST TEXAS UTILITIES COMPANY,

Complainant,

v.

THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY,

Defendant.

Docket No. 4119



**PETITION OF THE WESTERN COAL TRAFFIC  
LEAGUE FOR LEAVE TO INTERVENE**

Office of Proceedings

WESTERN COAL TRAFFIC LEAGUE

OF COUNSEL:

Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

Dated: June 18, 2003

By: C. Michael Loftus  
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1224 Seventeenth Street, N.W.  
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Its Attorneys

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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WEST TEXAS UTILITIES COMPANY,

Complainant,

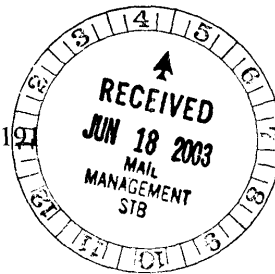
v.

THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY,

Defendant.

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Docket No. 41191



**PETITION OF THE WESTERN COAL TRAFFIC  
LEAGUE FOR LEAVE TO INTERVENE**

Pursuant to 49 C.F.R. § 1112.4, the Western Coal Traffic League (“WCTL”) hereby petitions the Board for leave to intervene in the above-referenced proceeding for purposes of seeking reconsideration of the Board’s decision served May 29, 2003 (“Decision”). WCTL’s intervention will not unduly disrupt this proceeding, and will not unduly broaden the issues raised. See 49 C.F.R. § 1112.4(a).

WCTL seeks reconsideration of the Board’s decision to increase its existing rate prescription on movements of coal from the Rawhide mine to West Texas Utilities Company’s (“WTU”) Oklaunion Station under the guide of a “technical correction.” See Decision at 3-4. As such, the Decision has widespread applicability and is of substantial

concern to western coal shippers generally. If its petition to intervene is granted, WCTL requests the Board to accept and consider its accompanying petition for reconsideration of the Decision with respect to these two issues.

In support of its petition, WCTL respectfully states as follows:

1. Statement Regarding Petitioner's Interest  
in the Proceeding (49 C.F.R. § 1112.4(b)(1))

WCTL is a voluntary association formed in 1976 whose regular membership is composed of shippers and receivers of coal mined west of the Mississippi River.<sup>1</sup> WCTL is the only association composed exclusively of those who ship, receive, and pay the applicable charges on high-volume movements of western coal. WCTL members ship in excess of 100 million tons of western origin coal annually.

A number of WCTL's members either currently are or previously have shipped coal pursuant to prescribed common carrier rates. Moreover, several of WCTL's members faces the possibility that they may be forced to seek rate prescriptions from the Board in the future. As such, WCTL has a direct interest in the Board's treatment of

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<sup>1</sup> WCTL members include: Alliant Energy; Arizona Electric Power Cooperative, Inc.; Associated Electric Cooperative, Inc.; Center Point Energy; Central Louisiana Electric Company, Inc.; City of Austin, Texas; City Public Service Board of San Antonio; Kansas City Power & Light Company; Lower Colorado River Authority; MidAmerican Energy Company; Minnesota Power; Nebraska Public Power District; NRG Power Marketing Inc.; Omaha Public Power District; Texas Municipal Power Agency; Westar Energy; Wisconsin Public Service Corporation; and Xcel Energy.

prescribed rates on coal movements, and in its procedures regarding the modification of those prescribed rates.

2. Statement as to Whether Petitioner Supports or Opposes the Relief Sought or the Action Proposed or is Otherwise Concerned with the Issues Presented in the Proceeding (49 C.F.R. § 1112.4(b)(2)) \_\_\_\_\_

As indicated in the accompanying petition for reconsideration, WCTL supports the position of WTU that the Board should not have modified the rate prescription under the guise of a technical correction. WCTL understands that WTU is filing its own petition for reconsideration of the Decision.

3. Statement Regarding Petitioner's Request for Relief (49 C.F.R. § 1112.4(b)(3)) \_\_\_\_\_

As set forth in greater detail in its accompanying petition for reconsideration, WCTL requests that the Board reconsider and reverse its decision. In particular, WCTL requests that the Board restore the prescription of the current rate.

\* \* \*

The Board routinely grants petitions to intervene in circumstances where, as here, the petitioner demonstrates that it has an interest in the proceeding and intervention will not unduly broaden the issues. See, e.g., Finance Docket No. 34003, *The Burlington Northern and Santa Fe Ry. – Construction and Operation Exemption – Seadrift and Kamey, TX*, Decision served February 14, 2001; Finance Docket No. 33782, *Entergy Arkansas and Entergy Rail – Construction and Operation Exemption – White Bluff to*

Pine Bluff, AR, Decision served June 30, 2000; Docket No. AB-33 (Sub-No. 118X),

Union Pacific R.R. – Abandonment Exemption – In El Paso County, CO, Decision served

June 23, 1998.

WHEREFORE, WCTL respectfully requests that the Board grant this  
petition to intervene and consider WCTL's accompanying petition for reconsideration.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE

OF COUNSEL:

Slover & Loftus  
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Washington, D.C. 20036

By:

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Andrew B. Kolesar III  
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(202) 347-7170

Dated: June 18, 2003

Its Attorneys

**CERTIFICATE OF SERVICE**

I hereby certify that on June 18, 2003, I caused copies of the foregoing  
Petition for Leave to Intervene to be served by hand upon all parties of record in this  
proceeding, as follows:

For Complainant:           Kelvin J. Dowd  
                                      Slover & Loftus  
                                      1224 Seventeenth Street, N.W.  
                                      Washington, D.C. 20036

For Defendant:             Samuel M. Sipe, Jr.  
                                      Steptoe & Johnson  
                                      1330 Connecticut Ave., N.W.  
                                      Washington, D.C. 20036

  
Andrew B. Kolesar III