

November 17, 2003

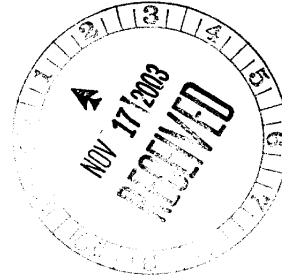
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By Messenger

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

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RE: STB Docket No. 42071, *Otter Tail Power Company v. The Burlington Northern and Santa Fe Railway Company*

Dear Secretary Williams:

This letter is submitted in order to correct a misleading statement in "BNSF's Reply to Otter Tail Power Company's Motion to Modify Procedural Schedule and Petition to Supplement the Evidentiary Record," filed on November 14, 2003. At page 6, BNSF states, "There is no reason that Otter Tail could not have applied multiple revenue allocation methods to its coal traffic, using the MMP methodology for the 31.7 million tons in question." This statement is extremely misleading.

Otter Tail applied the MMP methodology to non-coal traffic commodities only when BNSF did not provide any commodity-specific division information. In contrast, BNSF did produce division data for coal traffic, which Otter Tail determined was sufficient to develop a market-based regression analysis. The data (and the resulting regression co-efficients), however, dictated which coal traffic to include in this market-based analysis. Otter Tail's statistical analysis required the exclusion of all movements that were less than 1.1% of the total through miles.

Otter Tail could not and should not have used multiple approaches to calculate coal divisions, as BNSF suggests, for at least two reasons. First, multiple approaches for the same commodity would produce division splits that are inconsistent. For example, assume the 1.1% demarcation point occurs at a distance of 100 miles, so that the market-based regression analysis applies when the SARR's portion of the total through movement is 100 miles or greater and the MMP method applies when the SARR's portion is below 100 miles. A difference of a single mile on the SARR's portion of two through movements of similar total distance could mean the difference, for example, between a 60/40 and an 80/20 revenue split for transporting the same commodity. Such a result would be irrational. If Otter Tail had employed multiple approaches to calculate coal divisions, BNSF would have been justified in criticizing Otter Tail for doing so.

Second, multiple approaches to calculate divisions for the same commodity would provide an incentive to "game" the system. Instead of applying the traffic floor based on the actual

Jeff.Moreno@ThompsonHine.com Phone 202.263.4107 Fax 202.331.8330

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THOMPSON HINE LLP
ATTORNEYS AT LAW

1920 N Street, N.W.
Washington, D.C. 20036-1600

www.ThompsonHine.com
Phone 202.331.8800
Fax 202.331.8330

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divisions data, Otter Tail would have had an incentive to set the floor at a level that would maximize the SARR revenues under each of the two approaches. Otter Tail deliberately sought to avoid this gaming incentive.

Sincerely,



Jeffrey O. Moreno

Cc: Anthony J. LaRocca, Esq. (*via facsimile and messenger*)
