

February 16, 2006

Via Hand Delivery

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K St. N.W.
Washington, D.C. 20423

215815
ENTERED
Office of Proceedings



part of
public record

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

Dear Secretary Williams:

Enclosed for filing are an original and ten (10) copies of the Joint Petition to Correct Technical and Computation Errors in the above referenced proceeding.

An extra copy of this filing is enclosed for stamping and returning to our offices.

Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Sincerely,

Jeffrey O. Moreno
Counsel for Complainant

cc: Counsel for Defendant

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



OTTER TAIL POWER COMPANY)

Complainant,)

v.)

BNSF RAILWAY COMPANY)

Respondent.)

Docket No. NOR 42071

Office of Public Counselors

Feb 16 2006

Public Counselors

**JOINT PETITION TO
CORRECT TECHNICAL AND COMPUTATIONAL ERRORS**

Complainant, Otter Tail Power Company ("Otter Tail"), and respondent, BNSF Railway Company ("BNSF"), pursuant to the Board's decision in *Pub. Serv. Co. of Col. d/b/a Xcel Energy v. The Burlington Northern and Santa Fe Ry. Co.*, STB Docket No. 42057 (served Dec. 14, 2004), hereby jointly petition the Board to correct certain technical and computational errors in *Otter Tail Power Co. v. BNSF Ry. Co.*, STB Docket No. 42071 (served Jan. 27, 2006) (the "Decision"). The errors described below were identified by Otter Tail's consultants and confirmed by BNSF. BNSF counsel has authorized Otter Tail counsel to submit this Petition on behalf of both parties.

I. OPERATING COSTS.

The Decision contains technical errors in the calculation of operating costs in two areas: (1) non-coal T&E personnel; and (2) travel expense during personnel training. Each of these errors and the corrections needed to address each error is discussed below.

A. Double Count of T&E Employees on Non-Coal Trains.

The Board's electronic workpaper, "Rolling 7 LUMs and CARMILES OTP's DWELL TIMES.xls" contains an error in the determination of T&E personnel counts for non-coal trains. This error relates to the method by which the STB has annualized statistics. Specifically, the Board inaccurately applied the same method used to calculate coal train statistics to also calculate non-coal train statistics.

For coal trains, all statistics are accumulated by *round trip*, so all crew starts, LUMs, etc. reflect train travel in both the loaded and empty directions. These are then multiplied by the number of loaded trains. Crew starts per train are accumulated for each OD pair by multiplying the straight-away crew districts on that route by two and adding the turnaround crew districts as well, to reflect all crews required for the round-trip journey. This is proper for coal trains because they consistently move loaded in one direction and empty in the reverse direction.

In contrast, because non-coal trains move both loaded and empty cars in each direction, general freight train statistics must be accumulated per *one-way journey* and multiplied by the total number of general freight trains. All LUMs, GTMs, car hours, car miles, taxi trips, hotel trips, etc. are accumulated in this manner.

The Decision, however, incorrectly assumes a round trip of general freight train crews, thus doubling the number of crews required. This error overstates the OTRR crew count by 56 employees, thereby adding \$5,280,330 in T&E personnel expense. In addition, the overstatement in T&E personnel results in an overstatement of materials and supplies expense of \$1,540; first year training and recruiting expense of \$2,250,333; and insurance expenses of \$373,597. To correct this error, cells AB5:AB64 in STB electronic spreadsheet "Rolling 7

LUMs and CARMILES OTP's DWELL TIMES.xls", sheet Non-Coal Crew Districts should be modified so that it no longer doubles the number of straight-away crews.

B. Trainee Travel.

The Decision includes per diem and lodging for T&E trainees for a full 18 weeks, even though the assumed classroom portion is only 6 weeks. Both BNSF and Otter Tail assumed, however, that the OTRR no longer pays travel expenditures once employees begin on-the-job training because those employees are working out of their home terminals. Thus, travel expenses for the 12 weeks of on-the-job training is inappropriate. Correcting this error reduces training expenses in the base year by \$2,672,400.

In addition, the Decision incorrectly includes \$2000 per employee for IT Programmer travel during training. As Otter Tail explained on page III-D-12 of its Opening Evidence, the 4 weeks of IT Programmer training actually represents time spent to set up the OTRR's computer system, and therefore, no travel budget is necessary. Moreover, neither BNSF nor Otter Tail included travel expense for IT personnel during training. Inclusion of this travel expense overstates training expense by \$16,000 in the base year.

The combined impact of the Decision's overstatement of trainee travel is \$2,821,745 in the base year and \$155,196 in subsequent years. To correct these errors, the IT Programmer trainee travel found in cell G381 should be deleted and the references to cell D379 found in cell G379 should be replaced with the number "6." These cells are found on the "Expense Summary" sheet of file "FINAL OPERATING EXPENSES-rolling 7 w otp dwell.xls."

II. CONSTRUCTION COSTS.

The Decision contains technical errors in the calculation of construction costs in the following areas: (1) fine grading; (2) lateral drainage; (3) bridges; and (4) the Donkey Creek

fueling facility. These corrections in turn require restatement of the engineering, mobilization and contingency costs. Each of these corrections is discussed below.

A. Fine Grading.

The Decision mistakenly uses the square yards quantity of fine grading as the investment dollar amount for fine grading, rather than the quantity times the unit cost. This error is in STB electronic worksheet "STB-OTRR GRADING Rebuttal XGF.xls", sheet "IIIF_18 Othr EW". The Board erroneously used the quantity of fine grading in cell AL44 (20,669,471) as the investment amount for fine grading. To correct this error, a link should be added to cell AL47 to the unit cost that appears at sheet "IIIF unit costs" cell G125. In addition, the formula (AL44 * AL47) should be added to cell AL52. This formula multiplies the unit cost for fine grading by the quantity of fine grading.

Furthermore, the Board should correct the unit cost currently in the sheet "IIIF unit costs" because it does not reflect the unit cost adopted in the Decision. At page D-14 of the Decision, the STB adopts Otter Tail's fine grading unit costs. However, the STB's spreadsheet continues to use BNSF's unit cost of \$0.91 per square yard. The correct unit cost is \$0.33, which is located at BNSF's electronic workpaper "III F 2 Fine Grading Crew Cost Development.xls", sheet Fine Grading Crew, line 9.

Correcting both errors reduces the investment in fine grading from \$20.7 million to \$6.6 million, or a reduction of \$14.1 million.

B. Lateral Drainage.

At page D-14 of the Decision, the STB incorrectly states that the parties agree on the quantity of pipe that would be needed for lateral drainage. Based upon this erroneous statement and its decision to use BNSF's unit costs, the STB used BNSF's investment amount for lateral

drainage. However, because the STB accepted Otter Tail's facility plan, including miles of track and thereby its quantities for linear feet of lateral drainage, it should have multiplied Otter Tail's quantity of pipe by BNSF's unit costs to calculate the investment amount for lateral drainage.

Otter Tail includes 68,855 linear feet for lateral drainage pipes, in contrast to BNSF's inclusion of 73,048.2 linear feet. Correctly applying BNSF's unit costs to Otter Tail's quantity reduces the lateral drainage investment from \$1,445,035 to \$1,366,077.

Since the Board merely inserted BNSF's investment amount for lateral drainage into its grading spreadsheet rather than using a formula, it cannot simply correct the quantity of pipe used. Rather, it should insert the formula, $(AA44 * AA47) + AA50$, into its electronic spreadsheet "STB-OTRR GRADING Rebuttal XGF.xls", sheet "IIIF_18 Othr EW" at cell AA52. In addition, the Board should copy BNSF's unit cost of \$18.83 per linear foot from BNSF's grading spreadsheet into the STB's grading spreadsheet at cell AA47 and copy BNSF's lateral drainage investment cost for the Eagle Butte branch of \$69,598 into the spreadsheet at cell AA50.

C. Bridges.

The STB's workpapers contain two errors related to the calculation of bridge investment costs.

First, the Board has double counted the track feet associated with the Valley City bridge at mile post 64.4, in STB electronic spreadsheet "STB-OTRR Bridges Rebuttal XGF.xls", line 262, column V. The 3856 track feet associated with the Valley City bridge are erroneously added back to the single track bridge track feet when determining the total track feet for single track bridges. This occurs in the formula for cell V406 of the above spreadsheet, which is " $=SUM(V403 - V410 - V415 + 3856)$ ". Since cell V403 already includes the Valley City track

feet of 3856 feet, it is incorrect to add this amount to the calculation of track feet for single track bridges. To correct this error, the formula in cell V406 should be revised to remove the function "+3856".

The second error is related to deck drains for Type II bridges. The STB accepted BNSF's use of 12 deck drains per span for Type II bridges. However, the STB's bridge spreadsheet includes a line for the 12 deck drains per span *plus* an additional line for 6 more deck drains per span. To correct this error, the total cost for deck drains in cell I40 should be changed to \$0.00, thereby eliminating the cost related to the 6 extra deck drains per span for Type II bridges.

Correcting both of the bridge investment calculation errors reduces the bridge investment cost from \$140.6 million to \$129.6 million.

D. Donkey Creek Fueling Facility.

At page D-35 of the Decision, the STB accepts Otter Tail's use of two fueling platforms in the Donkey Creek yard rather than BNSF's use of three platforms. However, the Board's workpapers use BNSF's investment for this item from BNSF's electronic spreadsheet "III F 7 Facilities_Supp Evidence.xls", sheet "summary", cell K36. This cell includes \$12,950,492 from sheet, "Locomotive Fuel – Donk Crk", cell K29, which is based on the use of three fueling platforms. This error overstates the investment associated with fueling platforms by \$2.5 million.

To correct for this error, the amount in cell K22 of the STB's electronic spreadsheet "Copy of II F 7 Facilities_Supp Evidence.xls" sheet Locomotive Fuel – Donk Crk" should be changed to \$0.00. Once this change has been made, the calculated total for fueling facilities in cell K36 of \$10,529,328 should be copied and inserted into STB spreadsheet, "STB- LocoFuel_Facility XGF.xls", sheet "Fuel_facility", cell D18.

E. Engineering, Mobilization and Contingency Costs.

Correction of the above errors will result in a reduction in engineering, mobilization and contingency costs for the OTRR of \$2.8 million, \$1.0 million and \$3.1 million respectively. The revised amounts for these three items are shown in STB electronic worksheet, "STB – OTRR Construction rebuttal XGF.xls", sheet "Summary", cells H102, H103 and H104 and should equal \$207,364,642; \$47,133,616; and \$221,901,260, respectively.

Respectfully submitted,



Richard E. Weicher
Michael Roper
The Burlington Northern and Santa Fe
Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

Samuel M. Sipe, Jr.
Anthony J. LaRocca
Step toe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Attorneys for Respondent

February 16, 2006

Nicholas J. DiMichael, Esq.
Jeffrey O. Moreno, Esq.
THOMPSON HINE LLP
1920 N Street, NW, Suite 800
Washington, D.C. 20036
(202) 331-8800

George Koeck, Esq.
General Counsel
OTTER TAIL CORPORATION
3203 32nd Avenue, SW, Suite 110
Fargo, ND 58103

Attorneys for Complainant