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April 6, 2006



via Hand Delivery

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

FILED
MAR - 6 2006
SURFACE
TRANSPORTATION BOARD

Re: Western Fuels Ass'n. and Basin Electric Power Cooperative v.
BNSF Railway Company, Docket No. 42088

Dear Secretary Williams:

Enclosed for filing in the above-captioned matter are an original and ten copies of BNSF Railway Company's Petition for Reconsideration. Also enclosed is the \$300 filing fee.

Please date stamp the extra copy of this pleading and return it to the messenger who delivered this filing.

Sincerely,

Linda S. Stein

Linda S. Stein

Enclosure
cc: Complainant's Counsel

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SURFACE
TRANSPORTATION BOARD

Office of the Secretary

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Public Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**WESTERN FUELS ASSOCIATION, INC.
and BASIN ELECTRIC POWER
COOPERATIVE, INC.**

Complainant,

v.

BNSF RAILWAY COMPANY

Defendant.

Docket No. 42088



Petition for Reconsideration

Pursuant to 49 CFR §1115.3, BNSF Railway Company (“BNSF”) hereby requests that the Board reconsider one aspect of its March 17, 2006 Order in the above-captioned case relating to the requirement that the parties submit supplemental evidence on traffic group tonnages using the most recent EIA Annual Energy Outlook forecast (hereafter “AEO 2006 Forecast”) for the period 2006 through 2024. As discussed below, the Board should order that the parties use the AEO 2006 Forecast to adjust the SARR’s 2005 tonnages as specified below to account for the fact that actual 2005 volumes were significantly lower than the forecast of 2005 tonnages used in the parties’ SAC evidence. Otherwise, the parties’ 2005 tonnages for the SARR will be inconsistent with the AEO 2006 Forecast, which is based in part on actual 2005 tonnages that were lower than expected. Without the proposed adjustment, total SARR tonnages will be significantly overstated.

I. INTRODUCTION

Western Fuels Association, Inc. (“WFA”) and Basin Electric Power Cooperative, Inc. (“Basin”) (collectively referred to as “WFA/Basin”) hypothesized a SARR that would operate for the time period 4Q04 to 3Q24.¹ Because actual volume information subsequent to 3Q04 was not available to the parties when the SAC evidence was being prepared, WFA/Basin relied on volume projections rather than actual historic volumes to project SARR volumes for the entire discounted cash flow (“DCF”) period from 4Q04 forward. *Id.* Specifically, WFA/Basin used its own internal business forecasts to project volumes for its Laramie River Station and Leland Olds’ plants. *Id.* at III-A-6. For other plants in the traffic group, WFA/Basin used BNSF’s plant-specific traffic forecasts to project SARR volumes for 4Q04 to 4Q05. *Id.* BNSF accepted use of these internal forecasts to project SARR volumes for the period 4Q04 through 4Q05. In 2005 when the parties submitted their evidence in this proceeding, information about Powder River Basin (“PRB”) coal volumes actually transported in 2005 did not exist.

The coal forecasts relied on by both parties assumed that PRB coal volumes included in the SARR traffic group would increase by 6.1 percent from 4Q04 levels to 2005.² In fact, PRB coal volumes increased by a much lower amount than projected in the coal forecasts relied on by the parties. BNSF’s 2005 coal volumes were only 1.0 percent higher than its 2004 coal volumes.³ Indeed, BNSF’s 2005 coal volumes were 2.7 percent *lower* than its 4Q04 levels,

¹ WFA/Basin Opening Nar. at III-A-5.

² BNSF Reply Exhibit III.A-8 shows that SARR tonnages would increase from 48.36 million in 4Q04 (193.4 million annualized) to 205.3 million in 2005.

³ BNSF 4Q05 Investors Report shows that coal carloads increased from 2.22 million 2004 to 2.24 million in 2005.
http://www.bnsf.com/investors/investorreports/4Q_2005_Investors_Report.pdf

significantly less than 6.1 percent increase forecasted for the SARR traffic group.⁴ Thus, the coal forecasts used by the parties did a poor job of predicting PRB tonnages that would be transported to coal shippers in 2005.

II. USE OF THE AEO 2006 FORECAST REQUIRES THAT AN ADJUSTMENT BE MADE TO 2005 SARR TONNAGES

In its March 17 Order at 2, the Board instructed the parties to use the AEO 2006 Forecast to develop traffic group tonnages from 2006 through 2024. The AEO 2006 Forecast also includes information regarding actual PRB coal volumes transported in 2005. In fact, the AEO 2006 Forecast of coal volumes to be transported in 2006 is based, in part, on actual experience in 2005. *See* AEO 2006 Forecast at Table 110 “Coal Production by Region and Type.”

Actual 2005 movements of PRB coal turned out to be far less than predicted. In the AEO 2005 Forecast, the EIA projected that production of Wyoming PRB Low-Sulfur, Sub-bituminous coal would total 421.9 million tons. *See* AEO 2005 Forecast at Table 111 “Coal Production by Region and Type.” The AEO 2006 Forecast corrects the 2005 forecast and identifies 2005 production of 405.0 million tons for Wyoming PRB Low-Sulfur, Sub-bituminous coal. *See* AEO 2006 Forecast Table 110 “Coal Production by Region and Type.” The difference is substantial. EIA’s projections of 2005 PRB volumes (as published in the AEO 2005 Forecast) overstated actual 2005 PRB volumes (as published in the AEO 2006 Forecast) by 4.2 percent.⁵

Use of the AEO 2006 Forecast thus requires an adjustment to the 2005 tonnages used by the parties in their SAC presentation to reflect the actual 2005 experience that is the basis for the

⁴ BNSF 4Q05 Investors Report shows that coal carloads were 575,000 in 4Q04, 2.30 million annualized. *Ibid.*

⁵ 421.9 million (2005 figure from AEO 2005 Forecast) / 405.0 million (2005 figure from AEO 2006 Forecast) = 1.042.

2006 forecast. Otherwise, there will be an inconsistency between the volume assumptions used by the parties for 2005 and the volume assumptions for 2006 and future years based on the AEO 2006 Forecast. There is an obvious connection between the level of actual, historical volumes in one year and the forecast of volumes for the next year. For example, if coal tonnages in a recent year were lower than expected, then the forecast for future year volumes may include higher tonnages based on an assumption that the unsatisfied demand in the historical period will be made up in the future period through higher volumes. Similarly, high volumes in a historical period might suggest more moderate growth in the future.

As noted above, the projections used by the parties did a poor job of predicting the change in coal shipments between 2004 and 2005. Volumes were far lower in 2005 than expected. The AEO 2006 Forecast accounts for this historical reality, and it is therefore appropriate for the Board to adjust the 2005 projections of SARR tonnages to make them consistent with the AEO 2006 Forecast. A straightforward adjustment can be made to accomplish this. The 2005 tonnages used by the parties in their SAC evidence for each shipper can be reduced by 4.2 percent to remove the overstatement in 2005 tonnages reflected in the parties' current evidence. As noted above, the EIA forecast of 2005 volumes overstated 2005 traffic volumes by 4.2 percent, and it is therefore appropriate to eliminate that overstatement from the parties' SAC evidence if the AEO 2006 Forecast is to be used to establish SARR volumes for years 2006 forward. In this way, the Board will have evidence reflecting actual 2005 traffic group volumes rather than the vastly overstated 2005 projected volumes that presently are relied upon by the parties in the evidence.

Use of the AEO 2006 Forecast to develop traffic group tonnages in 2005 causes PRB volumes for the SARR traffic group to increase by 1.9 percent from 4Q04 to 2005. This increase

is still greater than BNSF's actual 1.0 percent increase in transported coal tonnages from full-year 2004 to 2005 and is much more accurate than the 6.1 percent increase projected by the forecasts used in the current evidence.

Use of the AEO 2006 Forecast to develop 2005 tonnages would also be consistent with recent Board precedent in which the Board updated the forecasted evidence submitted by the parties with evidence of actuals that became available for the time period between the evidentiary filings and the Board's decision. *See* STB October 20, 2004 Decision in Docket Nos. 42069, 42070, and 42072 (Board's update of SARR tonnages in Eastern coal cases at 3-4 and 6) and STB January 19, 2005 Decision in Docket No. 42057, Public Service Company of Colorado d/b/a Xcel Energy v. The Burlington Northern and Santa Fe Railway Company (Board's update of indices used to calculate inflation at 19-20).

III. CONCLUSION

For the foregoing reasons, the Board should reconsider its March 17, 2006 decision and order the parties to reduce their 2005 traffic volumes for each shipper by 4.2 percent to reflect the lower traffic volumes that moved in 2005 as compared to the forecast of 2005 traffic. This

adjustment will make the parties' SAC evidence on traffic movements in 2005 consistent with the AEO 2006 Forecast.

Respectfully submitted,

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April 6, 2006

CERTIFICATE OF SERVICE

I hereby certify that this 6th day of April, 2006, I served a copy of the foregoing Petition for Reconsideration of BNSF Railway Company to the following by hand delivery:

John H. LeSeur
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