

Surface Transportation Board

---

ENTERED  
Office of Proceedings  
September 9, 2014  
Part of  
Public RecordDocket No. EP 724, *United States Rail Service Issues*September 4, 2014 Public Field Hearing, Fargo ND

---

## Public Statement of Mr. Mark Adkins, Vice President, TUCO INC.

Good Morning Chairman Elliott, Vice Chairman Miller and Board Member Begeman. My name is Mark Adkins. I am Vice President of TUCO INC. and this is my company's story.

TUCO is a single purpose entity that provides coal, transportation and coal handling services to two large coal-fired power plants in the Panhandle region of Texas.

TUCO typically delivers a total of approximately 8 million tons of coal to these two power plants under coal transportation agreements with BNSF. BNSF and its predecessors have delivered TUCO's coal since the 1970s. Our prior contracts contained meaningful service standards, but BNSF stopped agreeing to be held to such standards several years ago.

TUCO utilizes ten 120-car 'privately-owned' train sets to deliver the 8 million tons of coal from the Powder River Basin of Wyoming. Including spare cars, our fleet consists of roughly 1,300 rapid discharge and gondola cars. This fleet of cars has an estimated value of \$85 million.

I appeared before the Board and testified at the first hearing in this proceeding on April 10, 2014.

At that time, I made reference to what could best be described as poor rail service. January through March 2014, TUCO's cycle times were 124% of expected/historical values. These high cycle times translated to lower coal stockpiles at the plants.

Since that April 10 hearing, TUCO has experienced month after month after month of even higher cycle times. Average cycle times for August were 170% of

expected/historical values. This can only be described as horrific rail service, if you can consider it service at all.

BNSF has declined our requests to put additional equipment, either privately-owned cars or railroad-owned cars, into service to make up for the extremely long cycle times and increase our coal inventory.

It has also now become common for BNSF to park our trains without notice, either before or after the fact. TUCO routinely discovers that a train, usually a loaded train, has been parked when one morning trace is compared to the prior morning's trace. No voice mail, no email, no text message, nothing.

When questioned about this lack of communication in another forum, Matt Rose of the BNSF reportedly replied that shippers can go to the BNSF web site and find out where their trains are located. One of the things you can't find out on the web site is what the disposition of the train is to be. Will it be parked for 24 hours, 48 hours, or over 9 days as one of the TUCO trains was last month?

Remember, TUCO utilizes PRIVATELY-OWNED rail cars, not BNSF rail cars to deliver its coal. Parking a train puts an asset valued at \$8-9 million on a siding usually awaiting power and/or crews. Power and crews are frequently referred to as 'critical resources.'

I can certainly empathize with the all of the ag folks here today, as my family has been involved in farming or ranching for multiple generations (mostly in Kansas I might add), and I enjoy consuming the products of that result from farmers and ranchers hard work.

Review of the August 29 edition of the Weekly Report of BNSF's 2014 Grain Orders Update shows 2,029 past due cars and 2,285 filled order cars.

Here is a bit of perspective to consider. BNSF's coal shippers utilize an online Coal Forecasting Tool to communicate the quantity of coal to be loaded each month to coal producers and the railroad. These quantities are referred to as coal nominations.

January through August of 2014, TUCO nominated 5.9 million tons of Powder River Basin coal. During that same 8-month period, TUCO received 4.2 million tons, a shortfall of 1.7 million tons. That is 14,300 railcars that are 'past due.' To help you visualize this, if you could put all these cars together end-to-end, it would form a line of cars that would stretch from the STB's E Street office in Washington, D.C to Independence Hall in Philadelphia, PA., and you would still have enough cars left over to circle the block a few times while you looked for a place to park.

BNSF has stated on more than one occasion that it will not let any utility run out of coal. In the first place, why should the fate of the electricity supply to a region of Texas be put in the hands of a single railroad? But, in any event, how will BNSF make good on its

promise? Adding additional BNSF resources to the mix? If you assume for a minute that a power plant has reached what BNSF considers a critical inventory level, i.e. 10 days of inventory, and then a significant weather event like the October 2013 blizzard in the Powder River Basin strikes, what then? That blizzard shut down coal production and train loading at some mines for three days, and prevented BNSF crews from getting to trains. Recovery from a disruption like that can take a week or longer. If BNSF is the only railroad allowed to serve that utility, running out of coal could become a reality.

What are BNSF's plans to address extreme weather events during the winter of 2014-2015? Weather forecasts for much of BNSF service territory seem to range from below normal temperatures and higher than normal precipitation (more than likely), to above average temperatures and lower than normal precipitation.

On August 7, TUCO sent a letter to Fred Forestall and Gabe Meyers of the STB's Office of Public Assistance, Government Affairs and Compliance summarizing the current state of affairs between TUCO and BNSF, and requesting assistance in getting better service from BNSF. This letter followed a meeting with Mr. Forestall and Mr. Meyer in April. It is too early to determine if their contacts with the BNSF will improve the situation, but TUCO is not optimistic.

As part of my April 10 testimony, I asked the Board one question – What is the BNSF's Common Carrier Obligation to its customers? Surely, the BNSF is not meeting it in the case of TUCO INC.

TUCO is reviewing the options available to it under its contracts to rectify the current situation. TUCO is also asking the STB to take more forceful action to make BNSF take the steps necessary to improve its transportation of coal to TUCO facilities, such as making specific commitments to dedicate the necessary crews and equipment to reduce its cycle times to historical levels, and re-establish inventories to acceptable levels.

Things need to change.

Finally, as I stated previously, TUCO and the power plants it services have been around since the 1970s. They have experienced the passage of The Staggers Rail Act of 1980, the benefits of real competition and rail transportation contracting that followed immediately thereafter, and then the consolidation of the rail industry and the diminishment of competition and contracting for PRB coal service to the point we are today: Where BNSF can mismanage its business to the point that coal plants are on the verge of running out of coal, but the options for averting that disaster are almost exclusively dependent on BNSF's ability and willingness to act.

TUCO submits that this latest service crisis highlights the need for the Board to take steps to counter the harm caused by rail industry consolidation, such as improving the

ability of shippers to obtain access to service from other railroads using the tracks of the railroads who cannot meet their legal obligations to serve.

I thank the Board for its willingness to continue its investigation into this rail crisis and the time allotted to me today.