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March 25, 2014

235687

The Honorable Daniel R. Elliott  
Chairman  
The Honorable Ann D. Begeman,  
Vice Chairman  
United States Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

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Office of Proceedings  
March 25, 2014  
Part of  
Public Record

Re: Petition of the Western Coal Traffic League, Docket No. EP 723

Dear Chairman Elliott and Vice Chairman Begeman:

I write on behalf of BNSF Railway, Inc. (BNSF) in response to the March 24, 2014 petition of Western Coal Traffic League's (WCTL) to institute a proceeding to "address the adequacy" of BNSF's service to coal customers.

As you are well aware, BNSF has been experiencing significant service issues on its network as a result of increased traffic levels and the winter's severe weather. BNSF is committed to addressing and improving our service issues as well as providing transparency and information to all of our customers, including our coal customers in general and those that are a part of the WCTL in particular. But we do not believe that instituting the proceeding requested by a trade association that represents a small subset of BNSF shippers is warranted. We do not believe it will help BNSF shippers in general to receive improved service any faster and be informed about the progress of our service recovery in any greater detail.

Background

It is well known that BNSF's network has been strained by increases in traffic and the unusually severe weather we have all endured in the fall and winter of 2013-14. BNSF's traffic increases are not representative of the industry as a whole; BNSF has handled over fifty percent of the growth in all rail traffic for 2013. You are also aware that extensive media coverage has focused on the growth of crude oil shipments, and while crude by rail traffic on BNSF has grown significantly, our growth was across a number of commodity groups, including domestic intermodal, grain and most pertinent to this submission, coal. And as we have discussed, much of the growth in these commodities was compressed into a relatively short timeframe, further stressing capacity on our network.

And as all of us are aware, the winter of 2013-14 has been exceptionally severe and has further impacted BNSF's network velocity and performance. In particular, during the winter our northern region suffered from an extraordinary number of extremely cold days which have impacted almost every mechanical part of a railroad. Furthermore, this weather has also severely constrained operations at key BNSF terminals, most importantly Chicago, further impacting fluidity, particularly for eastern interchange traffic. The coming of spring has lessened, although not eliminated, the impact of weather on our operations and those of our interchange partners.

#### BNSF Recovery Plan

BNSF is taking aggressive short-term actions to address our service issue. The first is that we are over-resourcing our network -- we are hiring 5,000 employees, and adding over 500 locomotives and 5,000 freight cars to our active fleet in 2014. Most importantly, we have increased our capital spending from a record \$4 billion in 2013 to another record \$5 billion in 2014, comprised of \$2.3 billion in replacement capital on our core network, \$1.6 billion on equipment, \$900 million on network expansion and efficiency, and \$200 million on PTC deployment. As these resources come on line, service will gradually improve.

Importantly, BNSF has been committed to transparency about our service recovery with the Board, our customers and all of our stakeholders. BNSF's President & CEO Carl Ice met with both of you in February to respond to concerns you raised about our service and to review our service recovery plan. We have held weekly calls with the Board's Office of Rail Customer and Public Assistance. BNSF is submitting bi-weekly updates to the STB providing detailed metrics on our service recovery against our plan and the February benchmark.

And most importantly, BNSF has been open and transparent with our customers. BNSF employees at all levels of our business units – Coal, Agricultural Products, Consumer Products and Industrial Products – are constantly speaking and meeting with our customers and communicating about our service issues and providing recovery benchmarks to them. We have worked hard to minimize instances when a facility has shut down because of rail service issues, even though executing against this goal has stressed our network. Our senior executive and leadership teams are principally focused on operating safely, improving service and communicating with our customers. In sum, BNSF believes that we are doing everything possible to restore service on our network, but this recovery will be slow and uneven.

#### Western Coal Traffic League Petition

The WCTL, a trade association that represents a small number of BNSF coal customers in some matters, filed a petition yesterday asking the Board to institute an expedited proceeding to address BNSF's coal service issues. The WCTL asserts that this petition follows a letter dated March 14, 2012 from the President of the WCTL to the STB (a correspondence BNSF has never seen) raising "dire" concerns about BNSF coal service issues with the Board. As I will explain below, BNSF believes that the proceeding sought by the WCTL is unnecessary and would likely be counterproductive. Therefore BNSF urges you to reject this proposal.

First, the WCTL asks for the Board to institute a proceeding to "address BNSF's inability to meet the demands for coal transportation." [WCTL petition at 4]. BNSF has been forthright and transparent with its direct customers and stakeholders regarding our service issues; we don't

believe that there is any additional service improvement that could be the result of such a proceeding. Instead, it would likely divert BNSF's and our customer's attention from addressing the underlying service issues to responding in a regulatory environment. Such a proceeding, advocated by a small subset of BNSF coal shippers, has the potential to skew service recovery towards the shippers who are members of the WCTL at the expense of shippers who are not. As regulators, we urge you not to artificially tilt the service recovery towards any subset of shippers at the expense of others.

Second, the WCTL asks the Board to hold a "public hearing [] to address involved issues." [WCTL Petition at 6] BNSF submits that such a public hearing is unnecessary. However, unfortunately the current situation is not the first time BNSF's coal shippers have faced service problems. As a result of coal dust caused capacity constraints in 2005, the Board created the Rail Energy Transportation Advisory Council (RETAC). BNSF is a member of RETAC, and we respectfully submit that if the Board feels a further Board-sponsored public discussion is necessary, that the Board convene a meeting of the RETAC to discuss the matter, where BNSF could present information that the Board members feel necessary.

Third and finally, the WCTL asks BNSF to provide the Board with a variety of weekly information regarding our coal service. [WCTL Petition at 7] As I discussed earlier, BNSF is already providing the Board with bi-weekly data regarding our service metrics and progress towards our service recovery. This is in addition to the service recovery information we are providing to our individual customers (as opposed to third party consultants or trade associations). As a result, BNSF's preference is to continue to communicate bilaterally with individual customers, where we can provide information that is more robust and meaningful to that customer. But if the Board feels that the rail stakeholder community as a whole would benefit from additional overall information regarding BNSF's coal service, we suggest that BNSF include appropriate additional data and a discussion of coal service progress as part of its bi-weekly submissions to the Board.

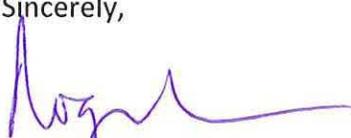
### Conclusion

As discussed above, BNSF recognizes that a combination of factors has significantly impacted service on our network; impacts that have been felt by a wide range of BNSF's customers. BNSF's focus is on restoring our network's service to the levels expected by all of our customers; as the Board is aware will be a lengthy and uneven process, but one which BNSF is certain we will accomplish. We appreciate the concerns expressed by the BNSF coal customers who are members of the WCTL and have already spoken directly with most of them. We are committed to transparency to our customers and our stakeholders about the state of our network as our service recovers.

As I have discussed above, BNSF respectfully submits that no action by the Board is necessary to address the issues raised by the WCTL on behalf of our customers. But if the Board does feel that some regulatory action is necessary, then we respectfully submit the Board utilize the

existing RETAC and regular BNSF service submissions to obtain any additional information and reject the proposal to institute a proceeding that will divert time, attention resources from our expeditious service recovery.

Sincerely,

A handwritten signature in purple ink, appearing to read 'Roger Nober', with a long horizontal flourish extending to the right.

Roger Nober

Executive Vice President Law & Corporate Affairs

cc: Bette Whalen  
William L. Slover