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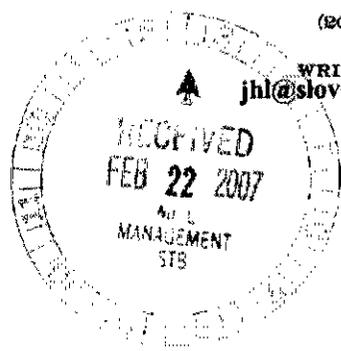
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February 22, 2007

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**VIA HAND DELIVERY**

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 711  
Washington, DC 20423-0001

Re: Docket No. 42088, Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. v. BNSF Railway Company

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and twenty (20) copies of the Opening Second Supplemental Evidence of Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. filed in response to the orders in this proceeding served on November 8, 2006 and November 22, 2006.

Two (2) separate CD's containing the text of this filing and accompanying Opening Second Supplemental electronic workpapers are also enclosed. One of the CD's is designated and labeled as Highly Confidential under the terms of the governing Protective Order. The other CD is public and is so labeled.

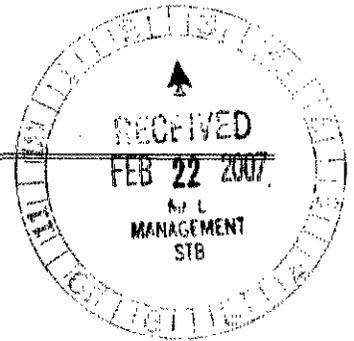
Please date stamp the extra copy of this cover letter and the enclosed pleading and return it to our messenger. Thank you for your attention to this matter.

Respectfully submitted,

John H. LeSeur  
An Attorney for Complainants

Enclosures  
cc: Counsel for Defendant BNSF Railway Co.

BEFORE THE  
SURFACE TRANSPORTATION BOARD



WESTERN FUELS ASSOCIATION, INC. )  
and BASIN ELECTRIC POWER )  
COOPERATIVE, INC. )  
 )  
Complainants, )  
 )  
v. )  
 )  
BNSF RAILWAY COMPANY )  
 )  
Defendant. )

Docket No. 42088

OPENING SECOND SUPPLEMENTAL EVIDENCE  
OF COMPLAINANTS' WESTERN FUELS ASSOCIATION, INC.  
AND BASIN ELECTRIC POWER COOPERATIVE, INC.

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

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Dated: February 22, 2007

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**VERIFICATION**

**CERTIFICATE OF SERVICE**

**ELECTRONIC WORKPAPERS (FILED SEPARATELY)**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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|---------------------------------|---|------------------|
| WESTERN FUELS ASSOCIATION, INC. | ) |                  |
| and BASIN ELECTRIC POWER        | ) |                  |
| COOPERATIVE, INC.               | ) |                  |
|                                 | ) |                  |
| Complainants,                   | ) |                  |
|                                 | ) | Docket No. 42088 |
| v.                              | ) |                  |
|                                 | ) |                  |
| BNSF RAILWAY COMPANY            | ) |                  |
|                                 | ) |                  |
| Defendant.                      | ) |                  |
|                                 | ) |                  |

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**OPENING SECOND SUPPLEMENTAL EVIDENCE  
OF COMPLAINANTS' WESTERN FUELS ASSOCIATION, INC.  
AND BASIN ELECTRIC POWER COOPERATIVE, INC.**

Complainants Western Fuels Association, Inc. ("Western Fuels") and Basin Electric Power Cooperative, Inc. ("Basin Electric") (collectively "WFA/Basin") submit this second supplemental opening evidence in response to the Surface Transportation Board's ("STB" or "Board") orders in this proceeding served on November 8, 2006 ("Nov. 8 Order") and November 22, 2006 ("Nov. 22 Order").

**I.**  
**COUNSEL’S ARGUMENT AND SUMMARY OF EVIDENCE**

This case should have been decided long ago. The record closed on September 30, 2005. Final briefs were filed on December 6, 2005. WFA/Basin expected the Board to adhere to its governing statutory deadline and promptly decide this case. However, that has not occurred. Instead, after the record closed, the Board instituted the Major Issues<sup>1</sup> proceeding; the Board then reopened the record to obtain unnecessary “supplemental evidence;”<sup>2</sup> and the Board now is seeking a second round of supplemental evidence to implement its Major Issues rulings.

The Board’s Nov. 8 Order and its Nov. 22 Order direct the parties to submit additional supplemental evidence on three topics. First, the Board asks the parties to develop jurisdictional threshold variable costs using the “unadjusted” Uniform Railroad Costing System (“URCS”) Phase III costing approach the Board adopted in Major Issues. Second, the Board asks the parties to develop stand-alone railroad (“SARR”) divisions for the Laramie River Railroad (“LRR”) cross-over traffic using the new Average Total Cost (“ATC”) approach the Board adopted in Major Issues. Third, the Board asks the parties to develop base year variable costs needed to apply the new Maximum Mark-up

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<sup>1</sup> Major Issues in Rail Rate Cases, STB Ex Parte No. 657 (Sub-No. 1) (STB served Oct. 30, 2006). This decision was preceded by the Notice of Proposed Rulemaking (“Major Issues NPRM”) served on February 27, 2006.

<sup>2</sup> See WFA/Basin’s Supplemental Opening Evidence (filed May 15, 2006) at 1-3; WFA/Basin’s Supplemental Rebuttal Evidence (filed July 14, 2006) at 1-2.

Methodology (“MMM”) the Board adopted in Major Issues for distributing excess revenues to the qualifying SARR traffic group members in cases where total SARR revenues exceed stand-alone costs (“SAC”).

In its prior filings in Major Issues<sup>3</sup> WFA/Basin presented substantial evidence and argument demonstrating that:

- The Board’s ATC methodology is fatally flawed;
- Even if the Board’s ATC methodology is not fatally flawed (which it is), it is fundamentally unfair, and legally indefensible, to retroactively apply this method in the instant case;
- The Board’s unadjusted URCS method to calculate variable costs produces inaccurate results and should not be applied in this case;
- The Board’s new “hybrid” approach for indexing SARR operating expenses understates expected SARR productivity gains; and

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<sup>3</sup> See WFA/Basin’s and the Western Coal Traffic League et al.’s (“Coal Shippers”) Opening, Reply and Rebuttal Comments filed in Major Issues and reproduced in WFA/Basin Op. Second Supp. electronic workpapers (public version) “WFA-Basin Opening 657 Comments.pdf,” “WFA-Basin Reply 657 Comments.pdf,” “WFA-Basin Rebuttal 657 Comments.pdf,” “Coal Shippers Opening 657 Comments.pdf,” “Coal Shippers Reply 657 Comments.pdf” and “Coal Shippers Rebuttal 657 Comments.pdf.”

- The Board's Major Issues decision is otherwise flawed for the reasons set forth in WFA/Basin's and Coal Shippers' prior filings in Major Issues.

In Major Issues, the Board summarily rejected WFA/Basin's above-listed contentions. The legality of the Board actions in Major Issues is the subject of multiple petitions for review pending in the United States Court of Appeals for the District of Columbia Circuit.<sup>4</sup> In this second supplemental opening evidence, WFA/Basin do not request that the Board reconsider the merits of WFA/Basin's objections to the Board's actions in Major Issues. These legal issues are presently before the D.C. Circuit. Of course, WFA/Basin are not waiving any of these objections by participating in these supplemental proceedings.<sup>5</sup> Instead, as directed by the Board in its Nov. 8 Order and its Nov. 22 Order, WFA/Basin submit specified supplemental evidence concerning jurisdictional threshold costs, ATC divisions and MMM costs.

**A. Jurisdictional Threshold Evidence Summary**

In this second supplemental opening evidence, WFA/Basin have calculated jurisdictional threshold costs using the "unadjusted" URCS approach the Board adopted in Major Issues. See pp. 9-13 infra. The resulting costs are higher than the adjusted

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<sup>4</sup> See BNSF Ry. Co. v. STB, D.C. Cir. No. 06-1372 (filed Nov. 13, 2006) and consolidated cases.

<sup>5</sup> See WFA/Basin's Petition for Reconsideration of the Board's November 8, 2006 Order (filed Nov. 14, 2006) at 3 n.1; WFA/Basin's counsel letter to the STB (dated Dec. 4, 2006) at 2.

variable costs WFA/Basin previously tendered. See p. 13 infra. Nevertheless, as shown in Table 1 below, the revenue-to-variable cost (“R/VC”) ratios calculated using the Board’s unadjusted cost method remain vastly in excess of the 180% R/VC jurisdictional threshold:

| <b>Second Supplemental Opening Table 1</b><br><b>4Q04 R/VC Ratios For LRS Traffic</b><br><b>Using Major Issues Costing Procedures</b> |                           |
|---|---------------------------|
| Origin  | R <sup>1</sup> /VC Ratio% |
| Dry Folk  | 417%                      |
| Eagle Butte   | 412                       |
| Cordero   | 466                       |
| Caballo Rojo  | 457                       |
| Jacobs Ranch  | 484                       |
| <sup>1</sup> (Rate includes fuel surcharge)   |                           |

In Major Issues, WFA/Basin objected to the Board’s adoption of its unadjusted URCS costing approach, and objected to its application in the instant case, because the Board’s approach precludes use of time-honored movement-specific traffic and operating characteristics, and unit cost adjustments, that properly reflect the efficiencies of unit coal train service when compared to less efficient system-average train service.<sup>6</sup> WFA/Basin’s variable cost calculations produce higher variable costs, and lower R/VC ratios, due to the inherent inability of the Board’s Major Issues’ costing

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<sup>6</sup> See, e.g., WFA/Basin’s Additional Opening Comments in Major Issues at 29; WFA/Basin’s Additional Rebuttal Comments in Major Issues at 18; Coal Shippers’ Joint Opening Comments in Major Issues at 86-100; Coal Shippers Joint Rebuttal Comments in Major Issues at 45-53.

approach to properly measure the variable costs rail carriers incur in providing unit train coal service.

**B. ATC Evidence Summary**

As directed by the Board, WFA/Basin have recalculated the LRR's revenue using the Board's ATC cross-over divisions methodology.<sup>7</sup> The results are summarized in Table 2:

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<sup>7</sup> See WFA/Basin Op. Second Supp. electronic workpaper "LRR Traffic and Revenues WFABasin Supplemental\_ATC\_022207.xls."

| Second Supplemental Opening Table 2<br>LRR Revenues Calculated<br>Using ATC Divisions |   |
|---|---|
| Year<br>(1)   | Revenues with<br>ATC Divisions<br>(\$millions)<br>(2) |
| 4Q2004  | \$ 55.0   |
| 2005  | 234.1   |
| 2006  | 246.2   |
| 2007  | 247.5   |
| 2008  | 248.3   |
| 2009  | 254.7   |
| 2010  | 257.1   |
| 2011  | 261.9   |
| 2012  | 267.3   |
| 2013  | 273.3   |
| 2014  | 277.9   |
| 2015  | 277.1   |
| 2016  | 284.1   |
| 2017  | 294.9   |
| 2018  | 305.7   |
| 2019  | 314.3   |
| 2020  | 324.3   |
| 2021  | 335.1   |
| 2022  | 343.7   |
| 2023  | 353.3   |
| 3Q2024  | 272.9   |
| Total   | \$5,728   |

The Board's imposition of the complex ATC divisions procedure<sup>8</sup> produces draconian reductions in LRR's revenues. WFA/Basin previously calculated the LRR's

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<sup>8</sup> These complex procedures are described at pp. 13-15 infra.

revenues at approximately \$8 billion over the 20 year DCF period.<sup>9</sup> These calculations developed cross-over traffic revenue using the Modified Straight Mileage Prorate (“MSP”) method. As shown in Table 2, substitution of the flawed ATC divisions method for the longstanding MSP divisions method reduces the LRR’s revenue to \$5.7 billion – a reduction of \$2.3 billion.

Application of ATC in the present case is unlawful and unfair for the reasons fully set forth by WFA/Basin, and Coal Shippers in Major Issues: ATC ignores market factors; ATC contains arbitrary fixed cost allocations; ATC wrongly assumes that the fixed cost of higher density traffic lines is the same as the fixed cost of lighter density lines; and as particularly pertinent here, WFA/Basin would have modeled a different LRR using ATC.<sup>10</sup>

**C. MMM Evidence Summary**

The Board directed the parties to develop base year variable costs for each movement handled by the SARR in order to apply the new “MMM” it adopted in Major Issues. MMM is to be used to allocate excess revenues to qualifying SARR traffic group

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<sup>9</sup> See WFA/Basin Supp. Rebuttal electronic workpaper “LRR Traffic and Revenues WFABasin Supplemental.xls.”

<sup>10</sup> See Coal Shippers Joint Opening Comments in Major Issues at 33-53; Coal Shippers Joint Rebuttal Comments in Major Issues at 16-29; WFA/Basin’s Additional Opening Comments in Major Issues at 25-29; WFA/Basin’s Additional Reply Comments in Major Issues at 5-6; WFA/Basin’s Additional Rebuttal Comments in Major Issues at 16-17.

members in cases where SARR revenue exceeds SAC over the discounted cash flow (“DCF”) period. WFA/Basin have developed these costs.<sup>11</sup> See p. 24 infra.

## **II.** **JURISDICTIONAL THRESHOLD EVIDENCE**

### **A. The New Variable Cost Standards**

In Major Issues, the Board adopted new procedures to calculate jurisdictional threshold variable costs. See id. at 59-61. Specifically, the Board directed that the parties in future cases calculate these costs using the Board’s URCS Phase III program and the following nine specified input factors: “(1) the railroad; (2) loaded miles (which should include loop track miles); (3) shipment type (local, originated delivered, bridge, received terminated); (4) number of freight cars; (5) tons per car; (6) commodity (for loss and damage expense only); (7) type of movement (single, unit, multiple); car ownership (railroad or private); and (9) type of car.” Id. at 52 n.166. The Board also ruled in Major Issues that it would apply these new procedures to calculate variable costs in the instant case. See id. at 76-77.

### **B. Application of the New Major Issues Standards**

WFA/Basin have generally applied the new standards in the manner prescribed by the Board in Major Issues and in its Nov. 8 Order.

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<sup>11</sup> See WFA/Basin Op. Second Supp. electronic workpaper “WFA EP657 PH3 2004 URCS.xls.”

## 1. Historical Period

In its Nov. 8 Order, the Board directed the parties to apply the Major Issues variable cost procedures to “the historical issue movements already of record” in this proceeding. Nov. 8 Order at 2. The “historical issue movements” in this case consist of all BNSF movements of coal from Wyoming Powder River Basin (“PRB”) mines to the Laramie River Station (“LRS”) in the fourth quarter of 2004 (“4Q04”). These movements comprise five separate origin/destination (“O/D”) pairs: Dry Fork to LRS; Eagle Butte to LRS; Cordero to LRS; Caballo Rojo to LRS and Jacobs Ranch to LRS.

## 2. Phase III Costing Procedures

WFA/Basin utilized the Board’s 2004 BNSF URCS, and the Board’s Phase III program, to develop 4Q04 variable costs to apply to the 4Q04 issue movements. The nine movement-specific factors WFA/Basin inputted into the Phase III URCS are:

- The Railroad. The railroad on all 4Q2004 movements is BNSF.
- Loaded Miles. The parties previously agreed upon the loaded miles

for the 4Q04 issue movements.<sup>12</sup> These agreed upon mileages to LRS are: 186.0 miles (from Dry Fork); 187.6 miles (from Eagle Butte); 153.8 miles (from Cordero); 159.9

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<sup>12</sup> WFA/Basin did not include loop track miles in the mile inputs for URCS Phase III costing. The Phase III costing formula already includes terminal charges for each movement that accounts for crew costs, fuel costs, locomotive maintenance costs, maintenance of way costs, return on investment in locomotives and road property. If loop track miles are included, these costs would be double-counted.

miles (from Caballo Rojo); and 140.4 miles (from Jacobs Ranch). See WFA/Basin Reply electronic workpaper “T&O WFA Reply.123.”

- Shipment Type. The shipment type for the 4Q04 issue movements is originated/terminated.
- Number of Freight Cars. The parties previously agreed that the average number of freight cars for the 4Q04 issue movements is 136 cars per train. Id.
- Tons Per Car. The parties previously agreed that the average tons per car for the 4Q04 issue movements are: 121.5 tons (from Dry Fork); 120.4 tons (from Eagle Butte); 121.1 tons (from Cordero); 121.1 tons (from Caballo Rojo); and 121.0 tons (from Jacobs Ranch). Id.
- Commodity. The commodity transported in all 4Q04 issue movements is coal (Phase III Code 11).
- Type of Movement. All coal traffic movements in 4Q04 were unit train movements.
- Car Ownership. The cars included in the jurisdictional threshold variable costing analysis are privately-owned.<sup>13</sup>
- Type of Car. The cars supplied are gondola cars (Phase III Code 4).

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<sup>13</sup> BNSF also provides some cars used in LRS service. See WFA/Basin’s Op. Narr. at II-A-27 to 28. BNSF separately invoices, and WFA/Basin separately pay, \$40 per round trip for each BNSF supplied car. The separate fee reimburses BNSF for its car operating and ownership expense incurred in providing this additional service. See WFA/Basin’s Rebuttal Narr. at II-A-39.

### 3. Indexing

WFA/Basin's base year 2004 URCS costs are indexed to the 4Q04 level using the procedures set forth in Explanation of Rail Cost Update Procedures, ICC Statement IE-80 (April 1980), as supplemented in Complainants Filed Under Section 229 of the Staggers Rail Act of 1980, 365 I.C.C. 507 (1980) and in Wisconsin Power & Light Co. v. Union Pacific R.R., STB Docket No. 42041 (STB served June 20, 2004) at 59-60.

#### C. Rates and Resulting R/VC Calculations.

Table 3 below summarizes WFA/Basin's evidence regarding variable costs per ton, and the resulting R/VC ratios, for 4Q04 movements using the procedures prescribed by the Board in Major Issues:

| <b>Second Supplemental Opening Table 3<br/>                     BNSF Rates, Variable Costs and R/VC Ratios<br/>                     on LRS Coal Traffic to Moba, WY 4Q04<br/>                     Calculated Using the Board's Major Issues Procedures</b> |  |                                       |                                 |
|--|--|---------------------------------------|---------------------------------|
| Origin<br>(1)  | Rate<br>(with surcharge) <sup>1</sup><br>(\$)<br>(2) | Var. Cost<br>(\$) <sup>2</sup><br>(3) | R/VC<br>(%) <sup>3</sup><br>(4) |
| Dry Fork   | \$6.71   | \$1.61                                | 417%                            |
| Eagle Butte  | 6.72   | 1.63                                  | 412                             |
| Cordero  | 6.48   | 1.39                                  | 466                             |
| Caballo Rojo   | 6.53   | 1.43                                  | 457                             |
| Jacobs Ranch   | 6.25   | 1.29                                  | 484                             |

<sup>1</sup> Includes fuel surcharge. See WFA/Basin Reply electronic workpaper "T&O WFA Reply.123 "TO Detail."  
<sup>2</sup> See WFA/Basin Op. Second Supp. electronic workpapers "Dryfork.pdf," "Eagle Butte.pdf," "Cordero.pdf," "Caballo Rojo.pdf" and "Jacobs Ranch.pdf."  
<sup>3</sup> Column (3) ÷ Column (4) x 100.

As shown below in Table 4, the 4Q04 variable costs on the issue movements calculated using the Board's Major Issues procedures produce higher variable costs, and lower R/VC ratios, than the calculations previously submitted by WFA/Basin in this proceeding.

| <b>Second Supplemental Opening Table 4</b><br><b>Comparison of BNSF Rates, Variable Costs and</b><br><b>R/VC Ratios From PRB Origins to LRS (4Q04)</b><br><b>Using Prior WFA/Basin Costs and New Major Issues Costs</b> |                                   |  |  |                              |  |
|---|-----------------------------------|--|--|------------------------------|--|
| Origin<br>(1)   | BNSF<br>Rates <sup>1</sup><br>(2) | Prior Variable<br>Cost <sup>2</sup><br>(3) | <u>Major Issues</u><br>Variable Cost <sup>3</sup><br>(4) | Prior R/VC<br>Ratio %<br>(5) | <u>Major Issues</u><br>R/VC Ratio<br>(6) |
| Dry Fork  | \$6.71                            | \$1.45                                     | \$1.61   | 463%                         | 417%                                     |
| Eagle Butte   | 6.72                              | 1.50                                       | 1.63   | 448                          | 412                                      |
| Cordero   | 6.48                              | 1.31                                       | 1.39   | 495                          | 466                                      |
| Caballo Rojo  | 6.53                              | 1.31                                       | 1.43   | 498                          | 457                                      |
| Jacobs Ranch  | 6.25                              | 1.24                                       | 1.29   | 504                          | 484                                      |

<sup>1</sup> Includes fuel surcharge. See WFA/Basin Reply electronic workpaper "T&O WFA Reply.123 "TO Detail."  
<sup>2</sup> See WFA/Basin Op. Second Supp. electronic workpapers "Dryfork.pdf," Eagle Butte.pdf," "Cordero.pdf," Caballo Rojo.pdf" and "Jacobs Ranch.pdf."  
<sup>3</sup> See WFA/Basin Reb. Evidence (Filed Sept. 20, 2005) at II-A-42.

### III. CROSS-OVER TRAFFIC DIVISIONS

#### A. The New Divisions Standards

In Major Issues, the Board decided to replace its mileage-based method to set SARR divisions on cross-over traffic with its new ATC method. Id. at 31. The Board's ATC approach calls for the allocation of cross-over traffic revenues between the SARR and the residual incumbent in "proportion to the [ATC] of the movement on- and

off-SARR.” Id. at 26. The ATC for each on-SARR and off-SARR cross-over traffic movement equals the sum of the incumbent carrier’s average variable costs (“AVC”) and its average fixed costs (“AFC”). Under the Board’s procedures, AVC is “estimated using unadjusted URCS.” Major Issues NPRM at 20. AFC for each on-SARR and off-SARR cross-over traffic movement segment<sup>14</sup> is to be calculated using the following procedures:

[AFC is determined] by calculating the railroad’s system-average fixed cost per route mile, using URCS to determine the railroad’s total fixed costs and dividing this figure by the total route miles of track operated by the railroad. This system-average fixed cost per route mile could then be combined with the route miles and the traffic density of any *particular segment of the railroad’s network* to estimate an AFC per ton associated with that segment.

Id. The Board also decided in Major Issues to apply the new ATC methodology to set divisions on cross-over traffic in the instant case. Id. at 31, 75-76.

The Board’s Major Issues decision, along with its Nov. 8 Order, contain additional specific instructions to implement the Board’s ATC procedures.

- ATC will be applied to the LRR as previously configured by WFA/Basin. See Major Issues at 75-76; Nov. 8 Order at 3 (“the [ATC] information must be submitted for the traffic group described in our earlier orders

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<sup>14</sup> The on-SARR density includes only the traffic in the SARR traffic group while the off-SARR density includes all traffic that used those facilities.

addressing supplemental evidence previously required to be submitted in these cases”).

- Variable costs for ATC purposes should be calculated using the defendant carrier’s Phase III URCS and nine-specified movement-specific inputs. See Major Issues NPRM at 20; Major Issues at 60; Nov. 8 Order at 3.
- ATC variable and fixed costs should be developed using a “base year.” Nov. 8 Order at 3.
- If a cross-over traffic movement is not included in the base year, the movement should be costed using the base year URCS. Id.
- The initial revenue allocations developed using ATC will remain the same “for each year in the SAC analysis period.” Id.

The Nov. 8 Order also directs that the parties “provide a clear narrative discussion that describes any assumptions and all steps taken to apply [ATC].” Id. at 4.

**B. Application of the New Standards**

The record in this case did not contain the density data, or detailed off-SARR routing data, needed to apply ATC. WFA/Basin requested density and routing data in discovery requests submitted to BNSF following the issuance of the Board’s Nov.

22 Order. BNSF supplied responsive data over a period of several weeks ending on January 3, 2007.<sup>15</sup>

After receipt of the discovery data, WFA/Basin developed a detailed multi-step procedure to calculate ATC divisions for each of the LRR's 133 cross-over movements using a base year of 2004 – the first year in which the LRR provided service.<sup>16</sup> WFA/Basin's multi-step process first calculates on-SARR ATC for each cross-over traffic movement; then calculates off-SARR ATC for each cross-over traffic movement; and uses these calculations to calculate LRR cross-over traffic divisions.

1. **On-SARR ATC Calculations**

a. To calculate on-SARR ATC, WFA/Basin utilized the same LRR traffic group and the same on-SARR routings that WFA/Basin developed and summarized in their July 14, 2006 Supplemental Rebuttal Evidence.<sup>17</sup> For each cross-over movement traversing an on-SARR route, WFA/Basin determined the movement's on-SARR variable costs per ton, the weighted average density of the on-SARR routes traversed by the SARR traffic, and the movement's on-SARR fixed costs per ton.

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<sup>15</sup> WFA/Basin's written discovery requests and BNSF's written responses are included in WFA/Basin Op. Second Supp. electronic workpaper "written discovery.pdf."

<sup>16</sup> The LRR commenced operation on October 1, 2004.

<sup>17</sup> See WFA/Basin Supp. Rebuttal electronic workpaper "LRR Traffic and Revenues WFABasin Supplemental.xls."

b. WFA/Basin determined the variable cost per ton for the on-SARR route of each cross-over movement as follows: (i) WFA/Basin developed the nine (9) inputs identified in Major Issues for each movement using data BNSF provided in discovery; and (ii) WFA/Basin calculated the on-SARR variable cost per ton by placing the nine (9) inputs, and BNSF's 2004 URCS unit costs, into the URCS Phase III cost program.

c. WFA/Basin determined the weighted average density (net tons) for each on-SARR route as follows: (i) WFA/Basin identified the LRR density in 2004 net tons for each density segment<sup>18</sup> that makes up the on-SARR route;<sup>19</sup> (ii) WFA/Basin identified the LRR route miles for each density segment that makes up the on-SARR route; and (iii) WFA/Basin multiplied the LRR density in net tons for each density segment by the LRR route miles for each corresponding density segment and divided the sum of the products by the route miles of the total on-SARR route.

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<sup>18</sup> "Density segments" are defined as each discrete segment of the LRR system where traffic density (in net tons) is consistent. Thus, a portion of the system that runs from A to C via B where the A-B portion handles 10 million tons and B-C handles 8 million tons would be comprised of two density segments. The LRR contains 58 separate density segments.

<sup>19</sup> As noted above, the LRR commenced operations in 4Q04. Annual 2004 LRR tonnage is necessary to calculate the average fixed cost per ton for the on-SARR segment of each cross over movement. Annual LRR system density for 2004 is calculated by combining 4Q04 LRR tonnage with actual BNSF tonnage for the LRR traffic group for 1Q04-3Q04 which was provided by BNSF in discovery.

d. WFA/Basin determined the fixed cost per ton for the on-SARR route of each cross-over movement as follows: (i) WFA/Basin calculated BNSF's 2004 fixed cost per route mile by subtracting BNSF's total system variable costs from BNSF's total system costs as identified in BNSF's 2004 URCS formula and divided the difference by BNSF's total route miles identified in BNSF's 2004 Annual Report Form R-1, Schedule 700, Line 57, Column (c); (ii) WFA/Basin calculated BNSF's aggregate annual fixed cost for the on-SARR route by multiplying the BNSF's fixed cost per route mile by the on-SARR route miles; and (iii) WFA/Basin calculated BNSF's fixed cost per ton by dividing BNSF's aggregate annual fixed cost for the on-SARR route by the weighted average annual density (net tons) for the on-SARR route.

**2. Off-SARR ATC Calculations**

a. To calculate off-SARR ATC, WFA/Basin determined the movement's off-SARR route, the movement's off-SARR variable costs per ton, the weighted average density of the off-SARR routes and the movement's off-SARR fixed costs per ton.

b. WFA/Basin determined the off-SARR route for each cross-over traffic movement as follows: (i) WFA/Basin summarized the 2004 BNSF routing database provided by BNSF on December 21, 2006 by identifying only those coal records

for origin/destination pairs included in the LRR traffic group.<sup>20</sup> (ii) WFA/Basin then identified the “predominant” off-SARR routing for BNSF trains on the BNSF from the point of interchange with the LRR to the destination on the BNSF. The predominant routing was defined as the route that at least 70% of trains actually traversed as identified in the 2004 BNSF routing database. (iii) If an origin/destination pair included in the LRR traffic group was not included in the 2004 BNSF routing database, the predominant off-SARR route was determined by identifying a comparable movement to the same destination via the same interchange point included in the LRR traffic group. (iv) If no predominant route existed (i.e., no route in the 2004 BNSF routing database handled at least 70% of the trains for an origin/destination pair), an off-SARR BNSF route was chosen based on the route that handled a simple majority of trains moving from origin to destination.

c. WFA/Basin determined the variable cost per ton for the off-SARR route of each cross-over movement as follows: (i) WFA/Basin developed the nine (9) inputs identified in the STB’s Major Issues decision for each movement included in

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<sup>20</sup> The 2004 routing database provided by BNSF contained data for 2.2 million carloads. WFA/Basin excluded non-coal carloads, carloads for coal origin/destination pairs not included in the LRR traffic group, and carloads that were associated with unit trains of less than 50 cars per train (by excluding unit trains of less than 50 cars, WFA/Basin eliminated a small number of carloads that BNSF identified as having a different route than other carloads on the same train). After excluding these carloads, the routing database contained approximately 1.1 million carloads that were summarized and reviewed.

the LRR traffic group using data BNSF provided in discovery, and (ii) WFA/Basin calculated the off-SARR variable cost per ton for each movement traversing each off-SARR route by placing the nine (9) inputs and BNSF's 2004 URCS unit costs into the URCS Phase III cost program.

d. WFA/Basin determined the weighted average density (net tons) for each off-SARR route as follows: (i) WFA/Basin identified the BNSF density in 2004 net ton miles for each density segment that makes up the off-SARR route from BNSF's Density 2004 Net Tons Database provided by BNSF in discovery;<sup>21</sup> (ii) WFA/Basin identified the BNSF route miles for each density segment that makes up the off-SARR route from the BNSF Density 2004 Net Tons Database provided by BNSF in discovery; and (iii) WFA/Basin divided the sum of the BNSF net ton miles for each density segment by the sum of the BNSF route miles for each density segment.

e. WFA/Basin determined the fixed cost per ton for the off-SARR route of each cross-over movement included in the LRR traffic group as follows: (i) WFA/Basin calculated BNSF's 2004 fixed cost per route mile by subtracting BNSF's total system variable costs from BNSF's total system costs as identified in BNSF's 2004 URCS formula and divided the difference by BNSF's total route miles identified in BNSF's 2004 Annual Report Form R-1, Schedule 700, Line 57, Column (c); (ii)

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<sup>21</sup> WFA/Basin's off-SARR ATC analysis evaluated 285 separate off-SARR density segments.

WFA/Basin calculated BNSF's aggregate annual fixed cost for the off-SARR route by multiplying BNSF's fixed cost per route mile by the off-SARR route miles; and (iii) WFA/Basin calculated BNSF's fixed cost per ton by dividing BNSF's aggregate annual fixed cost for the off-SARR route by the weighed average annual density (net tons) for the off-SARR route.

**3. Procedure for Determining LRR  
Revenue Divisions for Cross-Over Traffic**

a. WFA/Basin calculated on-SARR total cost per ton for each movement by adding the on-SARR variable cost per ton and the on-SARR fixed cost per ton.

b. WFA/Basin calculated off-SARR total cost per ton for each movement by adding the off-SARR variable cost per ton and the off-SARR fixed cost per ton.

c. WFA/Basin calculated the ratio of on-SARR total costs to total movement costs by dividing on-SARR total costs by on-SARR plus off-SARR total costs.

d. WFA/Basin applied the Item 3.c. ratio to the total BNSF revenue for the evaluated movement. The result equals LRR's share of BNSF revenue for each cross-over movement. As directed by the Board, the LRR's share of BNSF's revenue for each cross-over movement remains constant during each year of the DCF model life.

**C. Revenue Results**

In their Supplemental Rebuttal Evidence, WFA/Basin calculated the LRR's revenue over the 20-year DCF period at approximately \$8 billion. In the instant filing, WFA/Basin calculate the LRR revenues over the 20 year DCF period at approximately \$5.7 billion. The \$2.3 billion reduction in revenues is attributable solely to the Board's decision to replace the MSP divisions method with the new ATC method. Table 5 below quantifies these differences on a year-by-year basis.

| <b>Second Supplemental Opening Table 5<br/> Comparison of LRR Revenues Calculated<br/> Using MSP and ATC Divisions*</b>   |   |   |   |
|---|---|---|---|
| <u>Year</u><br>(1)  | Revenues with<br>MSP Divisions <sup>1</sup><br>(\$ Millions)<br>(2) | Revenues with<br>ATC Divisions <sup>2</sup><br>(\$ Millions)<br>(3) | Difference<br>(\$ Millions)<br>(Col. 2 - Col. 1)<br>(4) |
| 4Q2004  | 576.6   | \$ 55.0   | (\$21.6)  |
| 2005  | 329.4   | 234.1   | (95.3)  |
| 2006  | 347.1   | 246.2   | (100.9)   |
| 2007  | 347.8   | 247.5   | (100.3)   |
| 2008  | 348.4   | 248.3   | (100.1)   |
| 2009  | 356.2   | 254.7   | (101.5)   |
| 2010  | 359.4   | 257.1   | (102.4)   |
| 2011  | 366.5   | 261.9   | (104.5)   |
| 2012  | 373.8   | 267.3   | (106.5)   |
| 2013  | 382.0   | 273.3   | (108.7)   |
| 2014  | 388.4   | 277.9   | (110.6)   |
| 2015  | 387.1   | 277.1   | (110.0)   |
| 2016  | 396.5   | 284.1   | (112.4)   |
| 2017  | 411.6   | 294.9   | (116.7)   |
| 2018  | 426.5   | 305.7   | (120.8)   |
| 2019  | 438.6   | 314.3   | (124.3)   |
| 2020  | 452.6   | 324.3   | (128.3)   |
| 2021  | 467.9   | 335.1   | (132.7)   |
| 2022  | 479.7   | 343.7   | (136.0)   |
| 2023  | 493.1   | 353.3   | (139.8)   |
| 3Q2024  | 381.0   | 272.9   | (108.1)   |
| Total   | \$8,010   | \$5,728   | (\$2,282)   |
| * Column figures reflect rounding.<br><sup>1</sup> See WFA/Basin Supp. Rebuttal electronic workpaper "LRR Traffic and Revenues WFABasin Supplemental.xls."<br><sup>2</sup> See WFA/Basin Op. Second Supp. electronic workpaper "LRR Traffic and Revenues WFABasin Supplemental ATC_022207.xls." |   |   |   |

**IV.**  
**MMM VARIABLE COSTS**

In Major Issues, the Board adopted MMM to calculate movement-specific rate reductions when SARR revenues exceed SARR SAC. Id. at 14. The Board also ruled it would apply MMM in the instant case. Major Issues at 75.

The Board's Nov. 8 Order asks the parties to calculate as inputs into the MMM formula the on-SARR variable costs for all movements using base year unadjusted URCS unit costs and the URCS Phase III cost program. The base year 2004 on-SARR variable costs that WFA/Basin have developed to determine ATC divisions on cross-over movement also can be used for MMM purposes.<sup>22</sup> Similarly, the variable costs that WFA/Basin developed to calculate jurisdictional threshold costs under the Board's Major Issues procedures can be used as MMM inputs.<sup>23</sup>

Respectfully submitted,

WESTERN FUELS ASSOCIATION, INC.  
And BASIN ELECTRIC POWER  
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Dated: February 22, 2007

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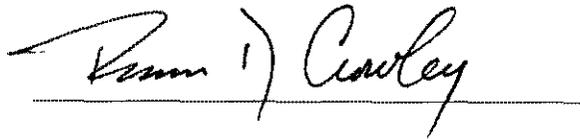
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<sup>22</sup> See WFA/Basin Op. Second Supp. electronic workpaper "WFA EP657 PH3 2004 URCS.xls."

<sup>23</sup> Id.

**VERIFICATION**

I, Thomas D. Crowley, verify under penalty of perjury that I am the same Thomas D. Crowley whose Statement of Qualifications appears in Part V of the Narrative portion of the Opening Evidence of Complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. ("WFA/Basin") filed in this proceeding on April 19, 2005; that I am responsible for the portions of the foregoing Second Supplemental Opening Evidence of WFA/Basin set forth in Parts II, III and IV; that I know the contents thereof; and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.

A handwritten signature in cursive script, reading "Thomas D. Crowley", is written over a horizontal line.

Thomas D. Crowley

Executed on: February 22, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February, 2007, I caused a copy of the foregoing Opening Second Supplemental Evidence of Complainants' Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. to be served by hand delivery on counsel for BNSF, as follows:

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