

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42088

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

v.

BNSF RAILWAY COMPANY

Decided: March 5, 2008

In this proceeding, Western Fuels Association, Inc. and Basin Electric Power Cooperative (collectively, WFA) challenge the reasonableness of the rates charged by BNSF Railway Company (BNSF) for movements of coal from origins in the Powder River Basin (PRB) in Wyoming to WFA's Laramie River Station coal-fired electric utility plant at Moba Junction, WY. In a decision served on September 10, 2007 (September '07 Decision), the Board found that WFA had failed to establish that the challenged rates were unreasonably high but offered WFA an opportunity to submit supplemental evidence. WFA and BNSF both filed timely petitions for reconsideration of the September '07 Decision. The Board denied the petitions for reconsideration and set the procedural schedule and evidentiary boundaries for the filing of additional evidence in a decision on February 29, 2008 (February '08 Decision).

On March 3, 2008, WFA filed a petition for clarification and, in the alternative, reconsideration of the February '08 Decision.¹ WFA asks the Board to require BNSF to file its reply to WFA's petition by March 7, 2008. Additionally, WFA asks the Board to set a technical conference to address what publicly and commercially available data can be used in the supplemental evidence.²

The procedural schedule is already in place for the submission of additional evidence and there is a need to resolve outstanding issues quickly. Thus, WFA's request that BNSF be directed to reply to WFA's petition by March 7, 2008, is reasonable under the circumstance and will be granted. Additionally, a staff supervised technical conference to narrow issues regarding what, if any, data not already in the record can be used for filing supplemental evidence, will be held on March 14, 2008, unless the Board rules on WFA's petition prior to that date.

¹ These requests will be addressed in a subsequent decision.

² WFA requests the use of publicly or commercially available data to develop a modified Stand Alone Cost presentation to address the Average Total Cost methodology. These data include: land value data; ICC Engineering Report data; geodetic map data; mileage data; R.S. Means Manual data; and new field observation evidence not currently in the record.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. BNSF shall file a reply to WFA's petition for clarification by March 7, 2008.
2. A staff supervised technical conference will be held on March 14, 2008.
3. This decision is effective on its date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan
Acting Secretary