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**EXPEDITED TREATMENT REQUESTED**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

ENTERED  
Office of Proceedings

JAN 27 2012

Part of  
Public Record

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
MOTION TO COMPEL DISCOVERY FROM  
WESTERN COAL TRAFFIC LEAGUE**

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Respondent BNSF Railway Company ("BNSF") hereby requests pursuant to 49 C.F.R. § 1114.31(a) that the Board issue an order compelling Petitioner Western Coal Traffic League ("WCTL") to respond on behalf of its members to certain of BNSF's First Set of Interrogatories and Requests for Production. BNSF requests expedited consideration of this motion in light of the fast approaching close of discovery in this proceeding.

As explained below, the discovery requests at issue here are clearly relevant to the issues in this proceeding. Indeed, for the most part, BNSF's discovery requests seek information that is comparable to the information that WCTL has sought from BNSF in discovery requests directed to BNSF. WCTL has refused to respond to BNSF's requests to the extent they seek relevant information from WCTL's members on grounds that its members are not formal parties to this proceeding. WCTL's objection to BNSF's discovery is unfounded and improper. The Board should not allow WCTL to initiate litigation against BNSF, challenge the reasonableness of BNSF's Coal Loading Rule,<sup>1</sup> request extensive discovery from BNSF relating to the challenges it

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<sup>1</sup> BNSF's "Coal Loading Rule" refers to Item 100, and Appendices A and B thereto, of BNSF Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

intends to pursue, and then refuse to provide any relevant information from the member companies on whose behalf WCTL is pursuing the litigation. WCTL is little more than a vehicle for WCTL's members to pursue litigation. It would be an abuse of the Board's process to allow WCTL's members to challenge BNSF's Coal Loading Rule through WCTL but then shield themselves from discovery obligations because they are not formal parties to the litigation.

BNSF is filing along with this motion to compel a petition for the Board to issue third party subpoenas to WCTL's members requesting the information that BNSF seeks through discovery directed to WCTL. While third party subpoenas provide an alternative vehicle for obtaining relevant information, BNSF does not believe that it should have to go through the more time consuming and burdensome process of obtaining third party subpoenas to develop information from the shippers on whose behalf WCTL initiated this litigation. The more efficient course is for the Board to promptly order WCTL to respond to BNSF's discovery requests on behalf of WCTL's members rather than to require BNSF to pursue the complicated, time consuming procedure of obtaining third party subpoenas.

### **BACKGROUND**

The Board initiated this proceeding in response to a petition filed by WCTL on August 11, 2011 to reopen the decision in *Ark. Elec. Coop. Corp.—Pet. for Decl. Order*, Docket No. FD 35305 (STB served Mar. 3, 2011) (the “*Coal Dust I* Decision”), enjoin BNSF's Coal Loading Rule that was adopted to comply with the Board's *Coal Dust I* Decision, and order BNSF to participate in broad, multi-party mediation regarding coal dust mitigation. The Board denied WCTL's petition in decisions dated August 31, 2011 and November 22, 2011. Instead, the Board initiated this declaratory order proceeding to address the narrow issue of “the reasonableness of the safe harbor provision” that BNSF adopted in its Coal Loading Rule. Nov.

22, 2011 Decision at 4. On December 16, 2011, the Board adopted the expedited procedural schedule proposed jointly by BNSF and WCTL. Under this expedited schedule, the fifty-day discovery period closes on February 6, 2012, and opening evidence is due forty-five days later on March 20, 2012.

BNSF served its First Set of Interrogatories and Requests for Production of Documents on WCTL on December 30, 2011. *See* Ex. 1. BNSF's discovery requests sought information relating to the issues that WCTL had raised in its August 11, 2011 petition that were relevant to the reasonableness of the safe harbor provision in the Coal Loading Rule. The scope of BNSF's discovery requests was very similar to the scope of discovery requests that WCTL had served on BNSF on December 23, 2011. *See* Ex. 2. BNSF has agreed to produce most of the materials requested by WCTL.

Along with the discovery requests to WCTL, BNSF sent WCTL's counsel separate discovery requests directed to each of WCTL's members. *See* Ex. 3. In an accompanying letter, BNSF's counsel made clear that if WCTL's interrogatory responses and document productions included responses and productions made on behalf of WCTL's members, it would be unnecessary for the individual WCTL members to respond separately. *See* Ex. 3.

On January 17, 2012, BNSF received WCTL's responses and objections and a letter from WCTL's counsel. *See* Ex. 4. The letter stated that WCTL's members would not be responding to the separate discovery requests directed to them. The WCTL letter claimed that BNSF was not entitled to seek information from WCTL's members because "none of the Entities is a party to [this] proceeding." *See* Ex. 4. In addition, in response to BNSF's discovery requests to WCTL, WCTL objected to producing information from its members on similar grounds that WCTL's members are not parties to the proceeding. *See* Ex. 4 at 2 (General Response and

Objection No. 5). Moreover, WCTL's responses to the discovery requests directed to WCTL made it clear that WCTL had little or no information about the coal dust suppression plans and activities of its members and it did not intend to seek out such information to provide to BNSF. *See, e.g.*, Ex. 4 at 10 (stating in response to BNSF's Interrogatory 9 that "no member has informed [WCTL] regarding arrangements with coal mines and/or suppliers of coal dust suppression products or services for the future application of Topper Agents to rail cars loaded with coal").

On January 26, 2012, counsel for BNSF conferred by telephone with counsel for WCTL regarding WCTL's refusal to respond on behalf of its members to BNSF's discovery requests, but the parties were unable to resolve the disputed matters addressed herein.

## **ARGUMENT**

### **I. The Information That BNSF Seeks Is Unquestionably Relevant To WCTL's Claims In This Proceeding.**

The Board's rules permit "discovery . . . regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding." 49 C.F.R. §1114.21(a). Discovery is not limited to "the information that [a party] believes is sufficient" to prove its case.

*See Seminole Electric Coop., Inc. v. CSX Transport, Inc.*, Docket No. 42110, at 2 (STB served Feb. 17, 2009). Instead, a party is generally "entitled to all relevant and potentially admissible information." *Id.*

BNSF pursued two parallel avenues to obtain information relevant to this proceeding from WCTL's member companies. First, in the discovery requests directed to WCTL, BNSF defined WCTL to include its member companies since WCTL was acting on behalf of those companies in pursuing a challenge to BNSF's Coal Loading Rule. Separately, BNSF served discovery requests on each of WCTL's members through WCTL's counsel. The separate

discovery requests to WCTL's members sought essentially the same information that BNSF sought from WCTL. Therefore, BNSF advised WCTL's counsel that if WCTL agreed to provide responses to BNSF's requests to WCTL on behalf of WCTL's member companies, WCTL's individual member companies would not have to respond to the separate requests directed to the individual companies. WCTL refused to provide the requested information on behalf of its member companies and refused to provide responses to the separate requests to each WCTL member company. In this motion, BNSF is moving to compel responses to specific BNSF requests directed to WCTL on behalf of WCTL's member companies (described below), but BNSF remains willing to accept responses to the individual requests directed to WCTL's member companies as an alternative.

There should be no dispute here over the relevance of the information that BNSF seeks from WCTL's members. Most of the discovery requests are similar to discovery requests that WCTL has made to BNSF. The discovery requests at issue in this motion are Interrogatories 4, 7, 8, 9, 10, 11, and 12, and Requests for Production ("RFP(s)") 1, 2, 3, 4, 5, 6, 7, 8, and 10 in BNSF's discovery requests directed to WCTL. These discovery requests are summarized below.

- Discovery requests seeking information from WCTL members regarding the release of coal dust while the coal is in transit by rail. This category covers RFPs 1 and 8. WCTL does not object to these RFPs on grounds of relevance. *See* Ex. 4 at 12, 16-17. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 2 at Interrogatory 9 (seeking production of "all analyses of coal dust emissions from coal cars").
- Discovery requests seeking information from WCTL members regarding the costs and effectiveness of coal dust suppression products or services. This category covers Interrogatories 4 and 11 and RFP 2. WCTL does not object to these discovery requests on grounds of relevance. *See* Ex. 4 at 5-6, 10-11, 12-13. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 2 at Interrogatories 7-8 (seeking information about topper testing), RFP 11 (seeking production of "all analyses relating to costs to comply" with BNSF's Coal Loading Rule).

- Discovery requests seeking information from WCTL members regarding activities and plans to apply coal dust suppression products or services to reduce the release of coal dust while the coal is in transit by rail. This category covers Interrogatories 7, 8, 9, and 10, and RFPs 3 and 4. WCTL does not object to these discovery requests on grounds of relevance. *See* Ex. 4 at 9-10, 13-14. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 2 at RFP 14 (seeking "documents relating to communications BNSF has had with coal shippers concerning" BNSF's Coal Loading Rule).
- Discovery requests seeking information from WCTL members regarding the effects, if any, that coal dust suppression products or services have on railroad or shipper employees and property, or on power generation. This category covers RFPs 5 and 6. WCTL does not object to these discovery requests on grounds of relevance. *See* Ex. 4 at 14-15. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 2 at RFP 8 (seeking documents relating to "adverse impacts" of coal dust suppression products).
- Discovery requests regarding communications between WCTL or its members and any other person regarding BNSF's Coal Loading Rule. This category covers RFP 10. WCTL does not object to RFP 10 on grounds of relevance. *See* Ex. 4 at 17-18. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 2 at RFPs 14 & 16 (seeking documents regarding BNSF's communications with coal shippers and coal suppliers concerning the Coal Loading Rule).

In addition to the discovery requests described above, BNSF requests that the Board compel WCTL to respond to Interrogatory 12 and RFP 7 with information from its members. Those requests seek information from WCTL's members regarding coal dust suppression products or services used to manage coal dust in coal handling and storage. WCTL has objected to these discovery requests on relevance grounds. *See* Ex. 4 at 11, 15-16. However, the requested information is clearly relevant. It is BNSF's understanding that coal shippers often apply chemical agents and other coal dust suppression products or services to reduce the release of coal dust in the handling and storage of coal including the release of coal dust from stationary stockpiles. The cost and effectiveness of those dust suppression technologies and the effect of those chemical agents on employees, equipment, and electricity generation are issues that may

have a direct bearing on the issues in this proceeding and BNSF is entitled to discovery as to those issues.

**II. WCTL Should Not Be Able To Pursue Litigation Against BNSF On Behalf Of Its Members And At The Same Time Avoid Producing Relevant Discovery Materials From Its Members.**

WCTL is challenging the reasonableness of BNSF's Coal Loading Rule safe harbor provisions on behalf of its members. WCTL has already acted as a vehicle for presenting information from its members to the Board regarding BNSF's Coal Loading Rule. WCTL attached a verified statement of Duane Richards, the chief executive officer of one of WCTL's members, Western Fuels Association, to the petition that led to the initiation of this proceeding. Yet WCTL now claims that it knows very little about the activities of its members relating to coal dust and coal dust suppression and argues that it is not required to develop relevant information from its members relating to the issues raised in this proceeding.

WCTL should not be permitted to pursue litigation on behalf of its members and avoid the discovery obligations that come with the WCTL members' decision to challenge BNSF's Coal Loading Rule. The information that BNSF seeks is necessary to develop a full record on the issues already raised by WCTL. WCTL either plans to address BNSF's Coal Loading Rule without relevant factual information from the very shippers who claim that the Rule is not reasonable, or it plans to blindsides BNSF with relevant information submitted to the Board by its members in verified statements attached to WCTL's evidentiary filings. In either case, WCTL's approach would undermine the Board's efforts to develop a complete record in this proceeding and it would be highly prejudicial to BNSF.

WCTL cannot have it both ways. It cannot expect the Board to allow it to present evidence in this proceeding on fact issues like the cost effectiveness of the safe harbor provisions

in BNSF's Coal Loading Rule but then refuse to provide relevant factual information from its members on those same issues.

WCTL is not a typical industry association. It is unincorporated. Its membership changes depending on the litigation that WCTL is pursuing. (One WCTL member, Xcel Energy, that participated in WCTL's challenge to BNSF's purchase accounting treatment of the Berkshire Hathaway transaction is not a participant in WCTL's challenge to BNSF's Coal Loading Rule.)<sup>2</sup> Its only listed address is the address of outside counsel that pursues WCTL's litigation. WCTL is little more than a vehicle for WCTL's members to engage in litigation. It appears that WCTL's only non-litigation activities are to "hold[] two meetings each year (Fall and Winter) where emerging legislative and regulatory developments are discussed." Ex. 4 at 8.

Unlike WCTL, the other industry associations that have indicated that they intend to participate in this proceeding—American Public Power Association, Edison Electric Institute, National Coal Transportation Association, and National Rural Electric Cooperative Association—engage in significant non-litigation activities on a regular basis. According to their websites, those associations have their own offices and employees, and they engage in activities such as publishing industry magazines, compiling statistics, providing education and certification, administering members' health and retirement plans, and operating a railcar leasing

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<sup>2</sup> Compare Oct. 28, 2011 Joint Opening Evidence & Arg. of WCTL, et al., at 2 n.2, *W. Coal Traffic League – Pet. for Decl. Order*, Docket No. FD 35506 (listing seventeen members, including Xcel Energy), with Ex. 4 at 8 (Xcel Energy not listed as a member).

exchange board.<sup>3</sup> While BNSF has served discovery requests on those associations, BNSF does not intend to insist on the production of information from the members of those associations. But WCTL is fundamentally different from those associations. When WCTL brings litigation on behalf of its members, WCTL should not be entitled to shield its members from the discovery burdens associated with litigation on grounds that WCTL's members are not parties to litigation.

BNSF acknowledges that it is possible to obtain the information at issue here through third party subpoenas to WCTL's members, and BNSF has filed a request for third party subpoenas. However, BNSF continues to believe that WCTL itself should be responsible for producing the requested information. WCTL should not be permitted to create roadblocks to obstruct the development of a record in this case or to delay the Board's consideration of WCTL's challenge to BNSF's Coal Loading Rule. The most direct and straightforward

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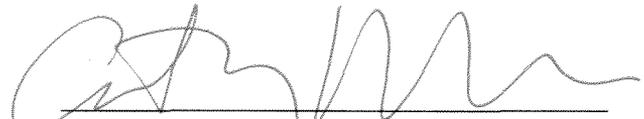
<sup>3</sup> See Ex. 5, American Public Power Association, November 2010 Fact Sheet, at 1, <http://www.publicpower.org> (follow "About APPA" link; then follow "APPA Fact Sheet" link) (stating that "[a]bout 60 staff members serve" APPA's members; providing APPA's address), and APPA Academy, <http://www.publicpower.org> (follow "APPA Academy" link) (stating that "[t]he APPA Academy is public power's complete resource for education and certification"); Ex. 6, Edison Electric Institute, Industry Data, <http://www.eei.org> (follow "What We Do" link; then follow "Data & Analysis" link; then follow "Industry Data" link") (stating that "EEI maintains comprehensive statistical data on the electric industry"), and Contact EEI, <http://www.eei.org/Pages/ContactEEI.aspx> (providing EEI's office address); Ex. 7, National Coal Transportation Association, Membership Benefits, <http://www.nationalcoaltransportation.org> (follow "Membership" link; then follow "Benefits" link) (stating that "NCTA members have exclusive access to a railcar leasing exchange board"; providing NCTA's address), and Coal Transporter, <http://www.nationalcoaltransportation.org> (follow "Coal Transporter" link) (describing NCTA's semi-annual magazine); Ex. 8, National Rural Electric Cooperative Association, Education and Training, <http://www.nreca.coop> (follow "Our Programs" link; then follow "Education and Training" link") (stating that "NRECA's Education and Training department . . . offer[s] more than 250 classes and professional development programs"), and Jobs, <http://www.nreca.coop> (follow "About Us" link; then follow "Jobs" link) (referring to NRECA's "more than 700 employees"; stating that "NRECA administers the health and retirement plans for more than 43,000 employees nationwide"; referring to NRECA's address). All of these websites were last visited on January 25, 2012.

approach to provide BNSF with the discovery to which it is unquestionably entitled in this case would be for WCTL to agree or to be compelled to produce the requested information on behalf of its members. The Board should order it to produce the requested discovery.

### CONCLUSION

For the reasons set forth above, the Board should compel WCTL to provide information and documents from WCTL's members in response to Interrogatories 4, 7, 8, 9, 10, 11, and 12, and RFPs 1, 2, 3, 4, 5, 6, 7, 8, and 10 in BNSF's First Set of Interrogatories and Requests for Production of Documents to WCTL.

Respectfully submitted,



Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

January 27, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of January, 2012, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas W. Wilcox  
GKG Law, PC  
Canal Square  
1054 31st St., NW, Suite 200  
Washington, D.C. 20007-4492  
E-mail: twilcox@gkglaw.com

*Counsel for The National Coal Transportation Association*

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League, American Public Power Association, Edison Electric Institute, and National Rural Electric Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative Corporation*

  
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Roy E. Liland

# Exhibit 1

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
WESTERN COAL TRAFFIC LEAGUE**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Western Coal Traffic League (“WCTL”). BNSF requests that WCTL serve its written objections and answers by January 16, 2012, and that WCTL produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with WCTL to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time WCTL responds to these discovery requests. BNSF requests that WCTL promptly contact BNSF’s undersigned counsel should WCTL have any questions regarding the meaning or scope of any of these discovery requests, the nature of the

information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Member Company” means an entity of any kind that is a member of WCTL.

10. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

11. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

12. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

13. “You” and “Your” refer to WCTL, as well as its committees, subcommittees, Member Companies, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

14. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not

limited to movements of coal over the Joint Line or over BNSF's lines in the Black Hills Subdivision.

### **INSTRUCTIONS**

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.

2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.

3. You are required to produce documents in the possession, custody, or control of You or Your Member Companies.

4. "And"/"Or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.

5. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.

6. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.

7. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

8. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

9. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

10. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

(a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;

and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify “the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available,” as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

2. Please explain the basis for Your statement that “the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available indicates that the results and procedures are fatally flawed,” as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

3. Please identify and explain the basis for Your statement that “BNSF has hinted strongly in the past that it would refuse service” to shippers who do not comply with the Coal Dust Loading Rule, as referred to at page 8 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

4. Please identify any studies or analyses that You or a Member Company are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

5. Please explain the basis for Your statement that the estimated cost of complying with the Coal Dust Loading Rule is “in the \$50 million to \$150 million range annually,” as referred to at page 24 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation and at page 4 of the August 4, 2011 Verified Statement of Duane L. Richards.

6. Please describe the formation, organization, and operation of WCTL, including but not limited to:

(a) the type of entity (association, corporation, or other type of entity), if any, that WCTL is organized as;

(b) the jurisdiction, if any, where WCTL has filed any organizational documents;

(c) the identity of WCTL’s Member Companies;

(d) the frequency of meetings held by WCTL; and

(e) the services provided by WCTL to Member Companies, other than participating in litigation.

7. Please identify each Member Company that has caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

8. Please identify each Member Company that has caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

9. Please describe arrangements that any of Your Member Companies have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

10. Please describe arrangements that any of Your Member Companies have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

11. Please describe requests made by any of Your Member Companies to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

12. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by any of Your Member Companies to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You, a Member Company, or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You or a Member Company and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans or the plans of Your Member Companies to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all formation and organizational documents regarding WCTL, including but not limited to articles of incorporation, certificates of registration, and by-laws.

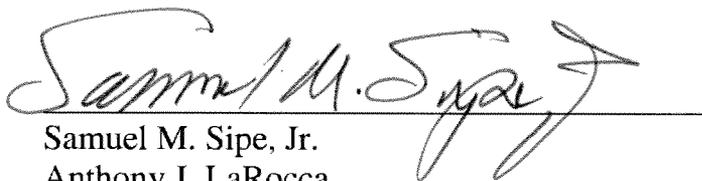
10. Please produce all documents that refer or relate to communications between You or a Member Company and any Person regarding the Coal Dust Loading Rule.

11. Please produce all documents supporting, contravening, or otherwise referring or relating to Your statement that “the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available indicates that the results and procedures are fatally flawed,” as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

12. Please produce all documents supporting, contravening, or otherwise referring or relating to Your statement that the estimated cost of complying with the Coal Dust Loading Rule is “in the \$50 million to \$150 million range annually,” as referred to at page 24 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation and page 4 of the August 4, 2011 Verified Statement of Duane L. Richards.

13. Please produce all documents identified in Your responses to BNSF’s Interrogatories, and all documents that contain facts upon which Your responses to BNSF’s Interrogatories are based.

Respectfully submitted,

A handwritten signature in black ink, reading "Samuel M. Sipe, Jr.", written over a horizontal line.

Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

# Exhibit 2

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

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**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**COAL SHIPPERS' FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION  
OF DOCUMENTS TO BNSF RAILWAY COMPANY**

Pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, the Western Coal Traffic League (“WCTL”), American Public Power Association, Edison Electric Institute, and National Rural Electric Cooperative Association (collectively “Coal Shippers”) submit the following First Set of Interrogatories and Requests for Production of Documents to BNSF Railway Company (“BNSF”). Coal Shippers request that BNSF serve its written objections and written answers by January 9, 2012. Coal Shippers also request that copies of all responsive documents be produced and delivered to the offices of Slover & Loftus LLP, 1224 Seventeenth St., N.W., Washington, D.C. 20036 on a rolling basis, with full production completed by January 30, 2012. Coal Shippers are prepared to cooperate with BNSF to facilitate the expeditious production of documents with the minimum practicable burden.

## I.

### DEFINITIONS

The following defined terms are used herein (whether capitalized or not):

1. “Analyses” means any studies, reports, memoranda, summaries, statistical compilations, presentations, reviews, audits, and other types of written, printed, or electronic submissions of information.
2. “And,” “or” and/or “each” shall be construed in the disjunctive or conjunctive as necessary in order to bring within the scope of each Interrogatory or Request all responsive information or documents which otherwise might be construed as outside the scope of the Interrogatory or Request. All use of the masculine gender shall be deemed to include the feminine.
3. “Assailed Tariff Item” means Item 100 of BNSF Price List 6041-B, including Appendices A and B thereto, as issued on July 14, 2011 and amended on July 20, 2011, September 15, 2011, September 19, 2011, and September 26, 2011, and any subsequent iterations thereof.
4. “Black Hills Sub-Division” means the line of railroad between Edgemont, South Dakota and West Gillette, Wyoming.
5. “BNSF” means the BNSF Railway Company, its present or former employees, agents, counsel, officers, directors, advisors, consultants, divisions, departments, predecessors (including but not limited to the Burlington Northern Railroad Company (“BN”) and The Atchison, Topeka and Santa Fe Railway Company and their parent companies), parent and/or holding companies, subsidiaries, or any of them, and all

other persons acting (or who have acted) on its behalf, including any contractors retained to perform services in connection with coal transportation services relating to the coal movements affected by this proceeding.

6. “BNSF Reply” means the Reply to WCTL’s Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation that BNSF filed in STB Finance Docket No. 35305 on August 23, 2011.

7. “Bobb Statement” means the Verified Statement of Mr. Stevan B. Bobb that BNSF filed as part of the BNSF Reply.

8. “Communication(s)” means the transmittal or exchange of information of any kind in any form.

9. “Document(s)” means all writings or visual displays of any kind, whether generated by hand or mechanical means, including, without limitation, photographs, lists, memoranda, reports, notes, letters, phone logs, e-mails, contracts, drafts, workpapers, computer printouts, computer tapes, telecopies, telegrams, newsletters, notations, books, affidavits, statements (whether or not verified), speeches, summaries, opinions, studies, analyses, evaluations, statistical records, proposals, treatments, outlines, any electronic or mechanical records or representations (including physical things such as, but not limited to, computer disks or dvds) and all other materials of any tangible medium or expression, in BNSF’s current or prior possession, custody, or control. A draft or non-identical copy is a separate document within the meaning of this term.

10. “Identify” or “describe” mean:

- (a) describe fully by reference to underlying facts rather than by reference to ultimate facts or conclusions of fact or law;
- (b) where applicable, particularize as to time, place, and manner;
- (c) set forth all relevant facts necessary to the complete understanding of the act, process, event, or thing in question;
- (d) as to a person (as defined): name, business and residence address(es), last known telephone number, occupation, job title, and dates so employed; and, if not an individual, state the type of entity, last known address of its principal place of business, and the names of its officers and directors; to the extent that any of the above information is not available, please state all other available means of identifying and locating such person;
- (e) as to a document (as defined): the type of document (letter, memorandum, printed version of an electronic mail message, printed version of a facsimile, etc.), the identity of the author or originator, the date authored or originated, the identity of each person to whom the original or a copy was addressed or delivered, the identity of such person known or reasonably believed by you to have present possession, custody, or control thereof, and a brief description of the subject matter thereof;
- (f) as to a communication (as defined): the date of the communication, the type of communication (telephone conversation, electronic mail message, meeting, etc.), the place where the communication took place, the identity of the person who made the communication, the identity of each person who received the communication and of each person present when it was made, and the subject matter discussed; and
- (g) as to a meeting: the date of the meeting, the place of the meeting, each person invited to attend, each person who attended, and the subject matter discussed.

11. “Joint Line” refers to a north-south rail line that begins in the south at a junction with the UP rail network called Shawnee Junction, Wyoming and extends north to a junction with a BNSF rail line near Gillette, Wyoming.

12. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions or other legal entities, as the case may be.

13. “PRB” means the Powder River Basin located in Wyoming and Montana.

14. “Related,” or “related to,” and “relating to” mean and include discussing, describing, referring to, reflecting, explaining, analyzing, or in any way pertaining to, in whole or in part, the subject matter of the Interrogatory or Request.

15. “TSM” or “TSM E-Sampler” means a track station or track side monitor designed and used to collect dust event data and to measure whatever is drawn into it.

16. “UP” means the Union Pacific Railroad Company, and references to its predecessors, including, without limitation, Western Railroad Properties, Inc., CNW, Missouri Pacific Railroad Company, Western Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and the Denver and Rio Grande Western Railroad Company.

17. “UP Circular 6603-C” means the UP Circular “Applying on Loading, Handling, Accessorial Charges, Fuel Surcharges and General Rules for Coal Trains Originating in Wyoming,” with Item Nos. 215 and 216 regarding recommended and required loading measures to mitigate coal dust issued on September 8, 2011, and any subsequent iterations thereof.

18. “UP Train” shall mean a coal train that UP originates from a Joint Line mine.

## **II.**

### **INSTRUCTIONS**

BNSF is requested to conform to the following instructions in responding to these Interrogatories and Requests.

1. Each paragraph below shall operate and be construed independently.

Unless otherwise indicated, no paragraph limits the scope of any other paragraph.

2. Where these discovery requests seek data in a computer-readable format, machine-readable format, or in its native format, this data is defined as an electronic file which contains structured, relational data, and is managed within a commercially available and relational database system (for example Microsoft, Oracle, IBM) and is readable via commercially available and standard Microsoft Windows software API (Application Programming Interfaces) methods to include Open Database Connectivity (ODBC) implementations thereby making the data accessible independent of the host system.

If the source table is stored within a non-relational system, such as a “flat file,” or a custom system (not commercially available) provide the data in standard sequential or delimited text files. The text files will be MS-DOS or MS-Windows compatible text format.

- (a) For each computer file supplied provide:
  - i. The name and description of the source database or other file from which the records in the computer file were selected (stating whether the file is an original extract from a line of business transactional or data warehouse computer system, or if the provided file is an extract,

or report, created specifically for this request) including a graphic or textural representation of the database relational model for each system to include all named tables of data within the system's relational model, and for every table provide a list of fields, primary keys, foreign keys, list relational links to other tables and fields, and filters, if any, associated to the relational links. Include all related tables, and all fields within each included table. List the fields which define a unique record (row) for each table, or state if the table does not require unique row differentiators or primary keys. For code tables, provide the code, and associated data elements in a discreet list (no duplicates);

- ii. A description of how the records in the file produced were selected;
- iii. The original table names (no aliases) and original field names to match the provided systems' data structures within each computer program (in native software and text file) and intermediate file used in deriving the files produced if the files produced are flat files. If the files produced are commercially available relational database files, provide the method used and code (if code was created) used to export the data to this relational format, including the operating system and version under which the final text files or relational tables were produced; and
- iv. A relational diagram defining relationships between tables, with all fields, listing primary keys, foreign keys, with each table or file provided as listed in the relational diagram. Also provide all table indexes, and index files, which define the index to be clustered or non-clustered.

(b) For each field in each computer database file provide a complete, standard data structure, including:

- i. The name of the field including its source table name, and if different from the LOB (line of business) or off-line analytical system field name, provide all field name incarnations so that there is a linkage between the provided field name and the original source field name and source table, and source application/system. Also provide the "Synonymous Name," that being a single word or multiple words that differ from the field name, but represents the same data element using alternative or more descriptive terminology. Also provide the "Context," *i.e.*, a designation or description of the application environment in which the data item (or field) is applied

or from which it is originally derived (its origin);

- ii. The starting and ending positions of the field if the file is a non-delimited flat file, or if the file is delimited, verify that the delimiter is inserted at the end of each field and the delimiter is not contained, as data, within any data cell (provide row terminators and line feed codes), otherwise, if the provided data set is a relational database “table,” export the table structure into a separate ANSI SQL 92 code or text file;
- iii. A detailed definition of the field and whether this field is the record’s (or row’s) unique identifier, or it is one of many fields which create a unique row (list them);
- iv. A detailed description of the data in the field, including an explanation of what they are used for and also provide all related index files in SQL code format or text files, if any;
- v. The type of data in the field, *i.e.*, whether numeric, character, alphanumeric, number of digits, number of significant digits, whether signed or unsigned (*i.e.*, negatives allowed) and whether this field is Unicode, or contains any constraints, or requirements to be Non-Null, or non-blank;
- vi. If the values in a field are terms or abbreviations, a list of all terms or abbreviations used with detailed definitions of each and provide the approved domain (range of values if indeterminate) or list of values permitted if determinate. Also provide minimum and maximum values, including whether the values are Null, hidden, or specific ASCII or ISO codes. Include the character encoding or software vendor’s code page, for each table if any;
- vii. An indication of whether the data in the field are packed or compressed;
- viii. If the data in the field are packed or compressed, the type of packing or compression:
  - (1) Zoned with low-order sign;
  - (2) Binary with LSB first;
  - (3) Binary with MSB first;
  - (4) Packed with high-order sign;
  - (5) Packed with low-order sign;

- (6) Packed with no sign; and
- (7) Other (specify and provide detailed instructions for unpacking);

- ix. If the data files and tables originate on a non-Microsoft Windows operating system, state the original operating system and convert to Microsoft Windows format; and
- x. For data or other electronic information submissions where the source system does not have a 32-bit operating system, verify that all data and files are computer-readable on a 32-bit operating system.

3. If an answer or the production of any responsive document is withheld under 49 C.F.R. §§ 1114.26(a) or 1114.30(a)(1) on the basis of a claimed privilege or attorney work product, then for each such answer or document, provide the following information: its date, type (*e.g.*, letter, meeting, notes, memo, etc.), author (note if author is an attorney), addressee(s)/recipient(s) (note if addressee(s) or recipient(s) is an attorney), general subject matter, and basis for withholding the information.

4. If the production of any requested document or answer to any interrogatory is withheld for claimed grounds other than privilege or attorney work product, state with specificity the basis for such withholding.

5. BNSF is requested to supplement its responses to these Interrogatories and Document Production Requests and produce responsive information or documents obtained or created at any time and is further requested to supplement its responses in the manner provided in 49 C.F.R. § 1114.29.

6. If a responsive document was, but is no longer, in BNSF's possession, custody, or control, describe what disposition was made of it.

7. Please organize the documents produced in such a manner that Coal Shippers may readily determine which documents are being produced by BNSF in response to each specific Document Production Request. If no document is produced in response to any specific Request, please so indicate in the response.

8. Color copies of documents are to be produced where color is necessary to interpret or understand the contents of the documents.

9. In the event BNSF objects to producing any documents on grounds that BNSF does not maintain the information described in the form or format requested by Coal Shippers, please produce the documents which contain such information in whatever form or format BNSF does maintain such information.

10. Coal Shippers reserve the right to file supplemental and/or follow-up Interrogatories, Document Production Requests, and other discovery, as necessary or appropriate.

11. Unless otherwise specified, these discovery requests cover the time period from January 1, 2005; provided, however, BNSF is not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that WCTL and BNSF filed with the Board on December 20, 2011.

### **III.**

#### **INTERROGATORIES**

1. Please describe the enforcement measures BNSF has implemented, or plans to implement, or has considered, if a shipper subject to the Assailed Tariff Item does not comply with the provisions set forth in the Assailed Tariff Item.

2. Please describe all communications between BNSF and UP concerning coal dust mitigation including communications relating to: (a) the Assailed Tariff Item; (b) the “Joint Line operating rule” referenced at page 8 of the Bobb Statement; and (c) Items 215 and/or 216 in UP Circular 6603-C.
3. Please describe the enforcement measures BNSF has implemented, or plans to implement, or has considered, relating to UP if a UP Train does not comply with the “Joint Line operating rule” referenced at page 8 of the Bobb Statement.
4. Please describe the enforcement measures BNSF has implemented, or plans to implement, or has considered relating to a shipper whose coal is moving in a UP Train if the UP Train does not comply with the “Joint Line operating rule” referenced at page 8 of the Bobb Statement.
5. Please describe how BNSF is, or plans to, determine whether a train is in compliance with paragraph 2 of the Assailed Tariff Item if the train is: (a) not treated with “an acceptable topper agent” as provided under paragraph 3 of the Assailed Tariff Item; and (b) no “other method of coal dust suppression” approved by BNSF as provided in paragraph 4 of the Assailed Tariff Item is applied to the train.
6. Please describe what “adverse[] impact[s]” BNSF is referring to in the last sentence of paragraph 4 in the Assailed Tariff Item.
7. Please describe all topper testing of Wyoming- or Montana-origin coal trains that BNSF is aware of, including but not limited to, the “recent tests carried out in the PRB” referenced in paragraph 3.B. of the Assailed Tariff Item.
8. For the “recent tests carried out in the PRB” referenced in paragraph 3.B. of the Assailed Tariff Item, please describe:
  - (a) the cut point used in the passive collectors to distinguish between the smaller particles that would exit the collectors and the larger particles that would drop into the devices’ collector boxes;
  - (b) any wind-tunnel studies performed with regard to the design of the passive collectors;
  - (c) all steps taken to substantiate that all of the material collected in the passive collectors actually was coal;
  - (d) all testing, calculations, or other engineering data establishing that the concentration of particulate matter in the entrained air flow sampled by the passive collectors was the same as the concentration in the entire air flow over the top of a railcar equipped with a passive collector;

- (e) all equipment used to perform field measurements of sample mass;
  - (f) whether the methods involved regular calibration traceable to a NIST standard;
  - (g) the degree of precision associated with field measurements of sample mass;
  - (h) the estimate of error associated field measurements of sample mass;
  - (i) the field procedures for sample handling and measurement;
  - (j) the collector cleaning procedures;
  - (k) the procedures for conditioning passive collector samples;
  - (l) the procedures followed to determine which railcars would be equipped with passive collectors;
  - (m) the manner, if any, in which data from BNSF's Rail Transport Emission Profiling System was used to supplement and/or normalize the passive collector data; and
  - (n) any statistical analyses concerning the passive collector tests.
9. If BNSF contends that it should not bear any costs associated with compliance with the Assailed Tariff Item, please describe the bases for this contention.
  10. Please describe how BNSF is, or plans to, determine a train's compliance with the profiling requirements set forth in paragraph 3.A. of the Assailed Tariff Item.
  11. For each individual TSM E-Sampler device located along the Joint Line or the Black Hills Subdivision, please identify: (a) the precise location of the device (including both the specific milepost and a precise description of the location of the device relative to the track); (b) the serial number of the device (or other coding used by BNSF for purposes of identification); and (c) the date of installation of the device in its present location.
  12. If BNSF intends to use TSM E-Samplers in any way to measure train compliance with the standards set forth in the Assailed Tariff Item, please describe how compliance will be measured.
  13. If BNSF intends to use devices other than TSM E-Samplers in any way to measure train compliance with the Assailed Tariff Item, please identify the devices and describe how compliance will be measured.
  14. Please describe why BNSF selected the "85 percent" reduction standard referenced in paragraph 2 of the Assailed Tariff Item.
  15. Please describe why BNSF selected the "85%" reduction standard referenced in paragraph 3.B. of the Assailed Tariff Item.

16. Please identify the percentage by which profiling in accordance with paragraph 3.A. of the Assailed Tariff Item reduces coal dust emissions from loaded coal cars as compared to loss in transit of coal dust from coal cars where no remedial measures have been taken.
17. Please identify, by name, title and address, the person(s) who prepared each answer to these Interrogatories and who reviewed and selected the documents to be produced in response to each of the following Requests for Production of Documents.

#### **IV.**

#### **REQUESTS FOR PRODUCTION**

1. Please produce all documents relating to the enforcement measures BNSF has implemented, or plans to implement, or has considered, if a shipper subject to the Assailed Tariff Item does not comply with the provisions set forth in the Assailed Tariff Item.
2. Please produce the “Joint Line operating rule” referenced at page 8 of the Bobb Statement.
3. Please produce all documents containing communications between BNSF and UP concerning coal dust mitigation including communications relating to: (a) the Assailed Tariff Item; (b) the “Joint Line operating rule” referenced at page 8 of the Bobb Statement; and (c) Items 215 and/or 216 in UP Circular 6603-C.
4. Please produce all documents concerning the enforcement measures BNSF has implemented, or plans to implement, or has considered, relating to UP if a UP Train does not comply with the “Joint Line operating rule” referenced at page 8 of the Bobb Statement.
5. Please produce all documents concerning the enforcement measures BNSF has implemented, or plans to implement, or has considered relating to a shipper whose coal is moving in a UP Train if the UP Train does not comply with the “Joint Line operating rule” referenced at page 8 of the Bobb Statement.
6. Please produce all pricing authorities (including contracts) containing coal dust mitigation provisions applicable to coal originating in Wyoming and Montana.
7. Please produce all documents relating to how BNSF is, or plans to, determine whether a train is in compliance with paragraph 2 of the Assailed Tariff Item if the

train is: (a) not treated with “an acceptable topper agent” as provided under paragraph 3 of the Assailed Tariff Item; and (b) no “other method of coal dust suppression” approved by BNSF as provided in paragraph 4 of the Assailed Tariff Item is applied to the train.

8. Please produce all documents relating to the “adverse[] impact[s]” BNSF is referring to in the last sentence of paragraph 4 of the Assailed Tariff Item.
9. Please produce all analyses of coal dust emissions from coal cars.
10. Please produce all documents relating to topper testing of Wyoming- or Montana-origin coal trains that BNSF is aware of, including but not limited to, the “recent tests carried out in the PRB” referenced in paragraph 3.B. of the Assailed Tariff Item.
11. Please produce all analyses relating to costs to comply with the Assailed Tariff Item.
12. Please produce all documents relating to how BNSF is determining, or how BNSF plans to determine, a train’s compliance with the profiling requirements set forth in paragraph 3.A. of the Assailed Tariff Item.
13. Please produce all analyses relating to the impact of the Assailed Tariff Item on BNSF’s costs of rail service.
14. Please produce all documents relating to communications BNSF has had with coal shippers concerning the Assailed Tariff Item.
15. Please produce all documents relating to communications BNSF has had: (a) with surfactant suppliers; and (b) with suppliers of any other method of coal dust suppression.
16. Please produce all documents relating to communications BNSF has had with coal suppliers relating to the Assailed Tariff Item.
17. If BNSF intends to use TSM E-Samplers in any way to measure train compliance with the standards set forth in the Assailed Tariff Item, please provide all analyses relating to the TSM E-Samplers, including all computer programs used to manipulate or otherwise analyze TSM E-Sampler output.
18. If BNSF intends to use devices other than TSM E-Samplers in any way to measure train compliance with the Assailed Tariff Item, please provide all analyses relating

to the devices, including all computer programs used to manipulate or otherwise analyze the devices' output.

19. Please produce all analyses related to BNSF's selection of the "85 percent" reduction standard referenced in paragraph 2 of the Assailed Tariff Item.
20. Please produce all analyses related to BNSF's selection of the "85%" reduction standard referenced in paragraph 3.B. of the Assailed Tariff Item.
21. Please produce all analyses relating to reduction in coal dust attributable to the profiling referenced in paragraph 3.A. of the Assailed Tariff Item.
22. Please produce the "[g]uidelines" referenced in paragraph 3.B. of the Assailed Tariff Item.
23. Please produce all documents relating to the "risk to the integrity of the PRB rail infrastructure" referenced at page 18 of BNSF's Reply.
24. Please produce all documents identified in BNSF's answers to Coal Shippers' Interrogatories, above.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE  
AMERICAN PUBLIC POWER ASSOCIATION  
EDISON ELECTRIC INSTITUTE  
NATIONAL RURAL ELECTRIC COOPERATIVE  
ASSOCIATION

By: /s/ John H. LeSeur

William L. Slover

John H. LeSeur

Andrew B. Kolesar III

Peter A. Pfohl

Slover & Loftus LLP

1224 Seventeenth Street, N.W.

Washington, D.C. 20036

Of Counsel:

Slover & Loftus LLP

1224 Seventeenth Street, N.W.

Washington, D.C. 20036

(202) 347-7170

Dated: December 23, 2011

*Their Counsel*

**CERTIFICATE OF SERVICE**

I hereby certify that this 23rd day of December, 2011, I have caused copies of the foregoing to be served via email and by hand delivery upon BNSF's outside counsel as follows:

Samuel M. Sipe, Jr., Esq.  
Anthony J. LaRocca, Esq.  
Kathryn J. Gainey, Esq.  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

/s/ Andrew B. Kolesar III  
Andrew B. Kolesar III

# Exhibit 3

STEPTOE & JOHNSON <sup>LLP</sup>  
ATTORNEYS AT LAW

Samuel M. Sipe Jr.  
202.429.6486  
ssipe@steptoe.com

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
Tel 202.429.3000  
Fax 202.429.3902  
steptoe.com

December 30, 2011

Via HAND DELIVERY

William L. Slover  
John H. LeSeur  
Andrew B. Kolesar III  
Peter A. Pfohl  
Slover & Loftus LLP  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

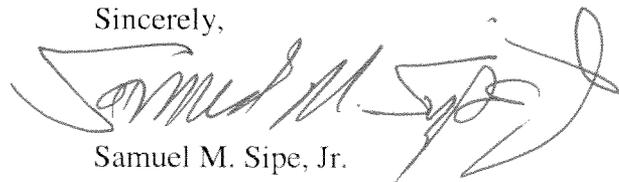
Re: ***Reasonableness of BNSF Railway Company Coal Dust Mitigation Tariff Provisions***  
**STB Finance Docket No. 35557**

Dear Counsel,

Enclosed are BNSF's First Set of Interrogatories and Requests for Production of Documents to Western Coal Traffic League and to each of the seventeen WCTL members listed in WCTL's October 28, 2011 filing in STB Finance Docket No. 35506. The discovery requests to WCTL define WCTL as including its members. If WCTL's interrogatory responses and document productions include responses and productions made on behalf of its members, then it is unnecessary for the individual WCTL members to respond separately.

Please let us know if you have any questions.

Sincerely,



Samuel M. Sipe, Jr.

Enclosures

cc: Parties of record

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
AMEREN ENERGY FUELS & SERVICES COMPANY**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Ameren Energy Fuels & Services Company (“AFS”). BNSF requests that AFS serve its written objections and answers by January 16, 2012, and that AFS produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with AFS to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time AFS responds to these discovery requests. BNSF requests that AFS promptly contact BNSF’s undersigned counsel should AFS have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to AFS, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

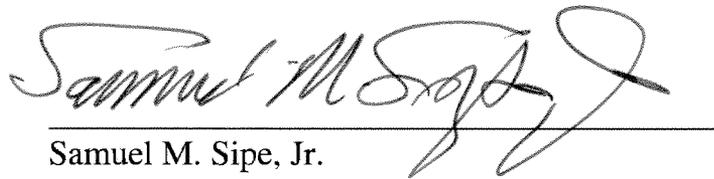
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
ARIZONA ELECTRIC POWER COOPERATIVE, INC.**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Arizona Electric Power Cooperative, Inc. (“AEPCO”). BNSF requests that AEPCO serve its written objections and answers by January 16, 2012, and that AEPCO produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with AEPCO to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time AEPCO responds to these discovery requests. BNSF requests that AEPCO promptly contact BNSF’s undersigned counsel should AEPCO have any questions regarding the meaning

or scope of any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to AEPCO, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

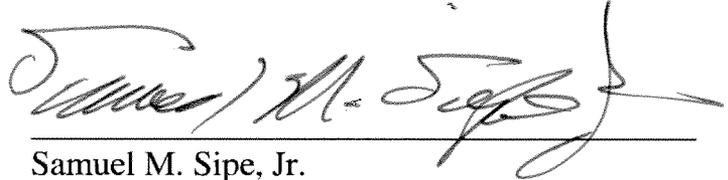
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
AUSTIN ENERGY**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Austin Energy. BNSF requests that Austin Energy serve its written objections and answers by January 16, 2012, and that Austin Energy produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with Austin Energy to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time Austin Energy responds to these discovery requests. BNSF requests that Austin Energy promptly contact BNSF’s undersigned counsel should Austin Energy have any questions regarding the meaning or scope of any of these discovery requests, the nature

of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to Austin Energy, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

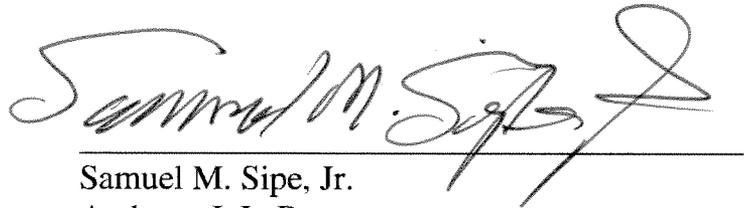
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

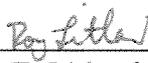
*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
CLECO CORPORATION**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to CLECO Corporation (“CLECO”). BNSF requests that CLECO serve its written objections and answers by January 16, 2012, and that CLECO produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with CLECO to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time CLECO responds to these discovery requests. BNSF requests that CLECO promptly contact BNSF’s undersigned counsel should CLECO have any questions regarding the meaning

or scope of any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to CLECO, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

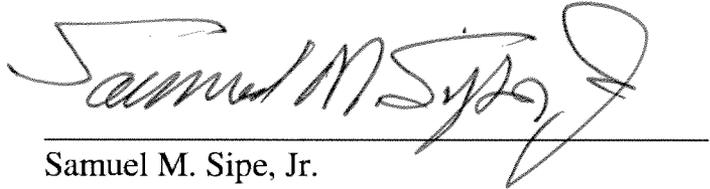
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

---

**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
CPS ENERGY**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to CPS Energy. BNSF requests that CPS Energy serve its written objections and answers by January 16, 2012, and that CPS Energy produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

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1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to CPS Energy, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

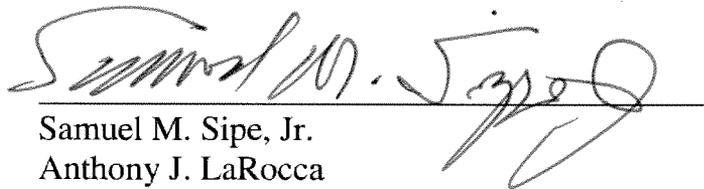
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

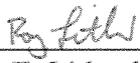
*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
ENTERGY SERVICES, INC.**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Entergy Services, Inc. (“ESI”). BNSF requests that ESI serve its written objections and answers by January 16, 2012, and that ESI produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with ESI to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time ESI responds to these discovery requests. BNSF requests that ESI promptly contact BNSF’s undersigned counsel should ESI have any questions regarding the meaning or scope of any of these

discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to ESI, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

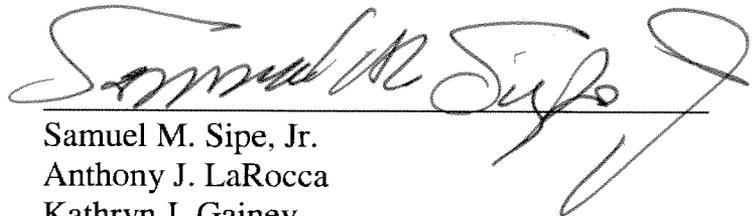
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
KANSAS CITY POWER & LIGHT COMPANY**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Kansas City Power & Light Company (“KCP&L”). BNSF requests that KCP&L serve its written objections and answers by January 16, 2012, and that KCP&L produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with KCP&L to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time KCP&L responds to these discovery requests. BNSF requests that KCP&L promptly contact BNSF’s undersigned counsel should KCP&L have any questions regarding the meaning

or scope of any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to KCP&L, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

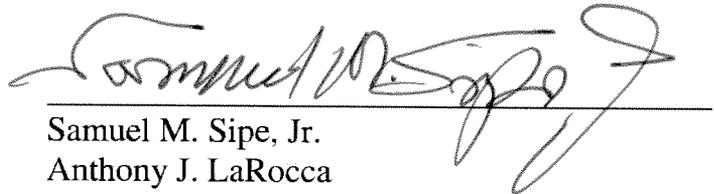
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
LOWER COLORADO RIVER AUTHORITY**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Lower Colorado River Authority (“LCRA”). BNSF requests that LCRA serve its written objections and answers by January 16, 2012, and that LCRA produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with LCRA to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time LCRA responds to these discovery requests. BNSF requests that LCRA promptly contact BNSF’s undersigned counsel should LCRA have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to LCRA, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

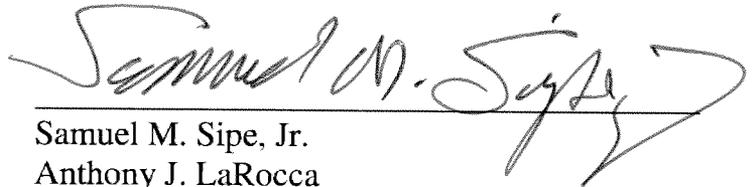
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
MIDAMERICAN ENERGY COMPANY**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to MidAmerican Energy Company (“MidAmerican”). BNSF requests that MidAmerican serve its written objections and answers by January 16, 2012, and that MidAmerican produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with MidAmerican to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time MidAmerican responds to these discovery requests. BNSF requests that MidAmerican promptly contact BNSF’s undersigned counsel should MidAmerican have any questions regarding the meaning or scope of any of these discovery requests, the

nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to MidAmerican, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

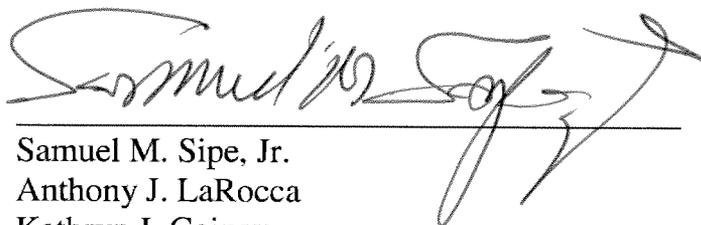
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

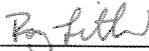
*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
MINNESOTA POWER**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Minnesota Power. BNSF requests that Minnesota Power serve its written objections and answers by January 16, 2012, and that Minnesota Power produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with Minnesota Power to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time Minnesota Power responds to these discovery requests. BNSF requests that Minnesota Power promptly contact BNSF’s undersigned counsel should Minnesota Power have any questions regarding the meaning or scope of any of these discovery

requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to Minnesota Power, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

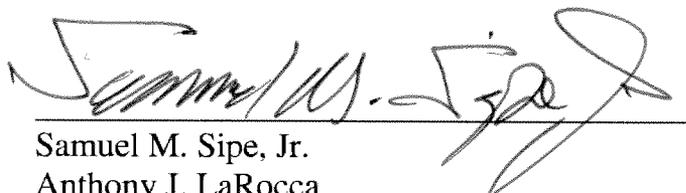
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

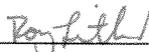
*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
NEBRASKA PUBLIC POWER DISTRICT**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Nebraska Public Power District (“NPPD”). BNSF requests that NPPD serve its written objections and answers by January 16, 2012, and that NPPD produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with NPPD to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time NPPD responds to these discovery requests. BNSF requests that NPPD promptly contact BNSF’s undersigned counsel should NPPD have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to NPPD, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

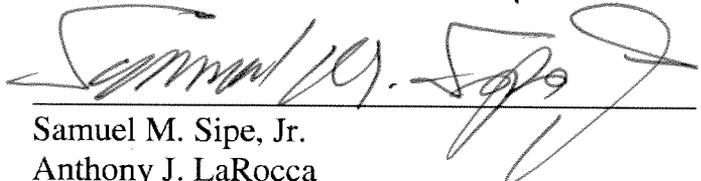
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
OMAHA PUBLIC POWER DISTRICT**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Omaha Public Power District (“OPPD”). BNSF requests that OPPD serve its written objections and answers by January 16, 2012, and that OPPD produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with OPPD to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time OPPD responds to these discovery requests. BNSF requests that OPPD promptly contact BNSF’s undersigned counsel should OPPD have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to OPPD, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

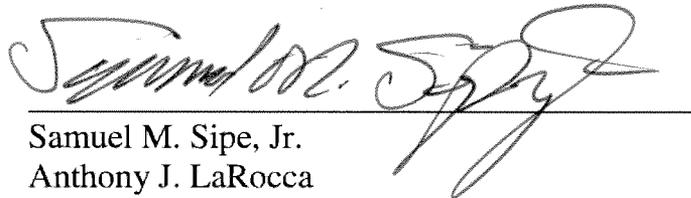
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

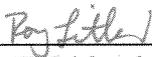
*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
TEXAS MUNICIPAL POWER AGENCY**

---

BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Texas Municipal Power Agency (“TMPA”). BNSF requests that TMPA serve its written objections and answers by January 16, 2012, and that TMPA produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with TMPA to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time TMPA responds to these discovery requests. BNSF requests that TMPA promptly contact BNSF’s undersigned counsel should TMPA have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to TMPA, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

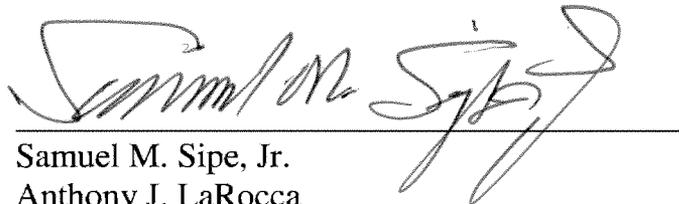
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

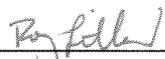
*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
WESTERN FARMERS ELECTRIC COOPERATIVE**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Western Farmers Electric Cooperative (“WFEC”). BNSF requests that WFEC serve its written objections and answers by January 16, 2012, and that WFEC produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with WFEC to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time WFEC responds to these discovery requests. BNSF requests that WFEC promptly contact BNSF’s undersigned counsel should WFEC have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to WFEC, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

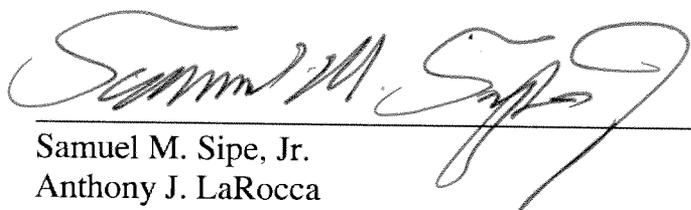
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
WESTERN FUELS ASSOCIATION, INC.**

---

BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Western Fuels Association, Inc. (“WFA”). BNSF requests that WFA serve its written objections and answers by January 16, 2012, and that WFA produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with WFA to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time WFA responds to these discovery requests. BNSF requests that WFA promptly contact BNSF’s undersigned counsel should WFA have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to WFA, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

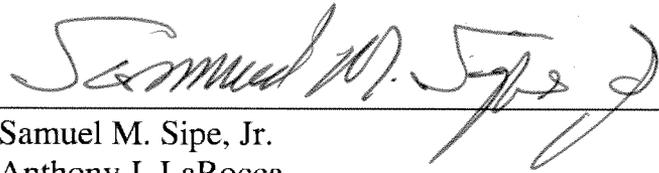
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

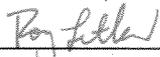
*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
WISCONSIN PUBLIC SERVICE CORPORATION**

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BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Wisconsin Public Service Corporation (“WPS”). BNSF requests that WPS serve its written objections and answers by January 16, 2012, and that WPS produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with WPS to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time WPS responds to these discovery requests. BNSF requests that WPS promptly contact BNSF’s undersigned counsel should WPS have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to WPS, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

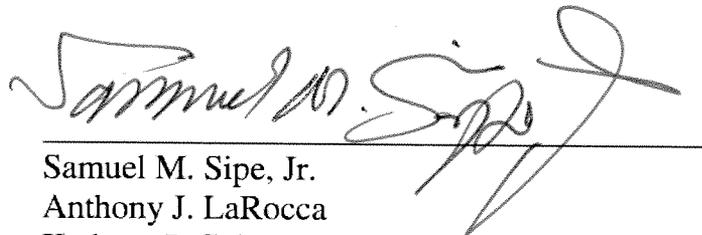
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

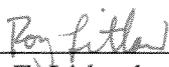
*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**BNSF RAILWAY COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO  
XCEL ENERGY**

---

BNSF Railway Company (“BNSF”), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Xcel Energy. BNSF requests that Xcel Energy serve its written objections and answers by January 16, 2012, and that Xcel Energy produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with Xcel Energy to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League (“WCTL”) to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time Xcel Energy responds to these discovery requests. BNSF requests that Xcel Energy promptly contact BNSF’s undersigned counsel should Xcel Energy have any questions regarding the meaning or scope of any of these discovery requests, the nature of the

information and documents responsive to them, or the procedure for producing responsive material.

### **DEFINITIONS**

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to Xcel Energy, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

## INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;  
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

### **INTERROGATORIES**

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

### **REQUESTS FOR PRODUCTION**

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

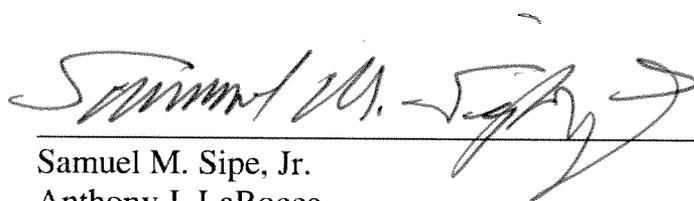
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.  
Anthony J. LaRocca  
Kathryn J. Gainey  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
(202) 429-3000

Richard E. Weicher  
Jill K. Mulligan  
BNSF RAILWAY COMPANY  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
(817) 352-2353

ATTORNEYS FOR  
BNSF RAILWAY COMPANY

December 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter  
Executive Director  
National Coal Transportation Association  
4 Meadow Lark Lane, #100  
Littleton, CO 80127  
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036  
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,  
American Public Power Association, Edison  
Electric Institute, and National Rural Electric  
Cooperative Association*

Christopher S. Perry  
U.S. Department of Transportation  
Office of the General Counsel  
1200 New Jersey Avenue, S.E.  
Room W94-316  
Washington, DC 20590  
E-mail: christopher.perry@dot.gov

Michael L. Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
E-mail: mrosenthal@cov.com

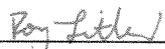
*Counsel for Union Pacific Railroad Company*

Eric Von Salzen  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
E-mail: evonsalzen@mwmllaw.com

Sandra L. Brown  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
E-mail: Sandra.Brown@ThompsonHine.com

*Attorney for Ameren Missouri*

*Counsel for Arkansas Electric Cooperative  
Corporation*

  
\_\_\_\_\_  
Roy E. Litland  
Steptoe & Johnson LLP  
1330 Connecticut Ave, N.W.  
Washington, DC 20036  
(202) 429-3000

# Exhibit 4

# SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.  
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER  
C. MICHAEL LOFTUS  
JOHN H. LE SEUR  
KELVIN J. DOWD  
ROBERT D. ROSENBERG  
CHRISTOPHER A. MILLS  
FRANK J. PERGOLIZZI  
ANDREW B. KOLESAR III  
PETER A. PFOHL  
DANIEL M. JAFFE  
STEPHANIE P. LYONS  
STEPHANIE A. ARCHULETA

OF COUNSEL  
DONALD G. AVERY

TELEPHONE:  
(202) 347-7170

FAX:  
(202) 347-3619

WRITER'S E-MAIL:

jhl@sloverandloftus.com

January 17, 2012

## VIA EMAIL

Samuel M. Sipe, Jr., Esq.  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

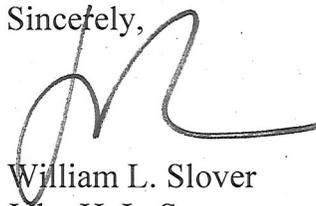
Re: STB Finance Docket No. 35557, Reasonableness of BNSF Railway Company Coal Dust Mitigation Tariff Provisions ("Coal Dust II")

Dear Sam:

On December 30, 2011, the undersigned received sets of interrogatories and document production requests (collectively "Requests") from BNSF Railway Company ("BNSF") in the *Coal Dust II* proceeding directed to the following entities: Ameren Energy Fuels & Services Company, Arizona Electric Power Cooperative, Inc., Austin Energy, CLECO Corporation, CPS Energy, Entergy Services, Inc., Kansas City Power & Light Company, Lower Colorado River Authority, MidAmerican Energy Company, Minnesota Power, Nebraska Public Power District, Omaha Public Power District, Texas Municipal Power Agency, Western Farmers Electric Cooperative, Western Fuels Association, Inc., Wisconsin Public Service Corporation, and Xcel Energy (collectively "Entities").

BNSF's Requests are not permitted under the Surface Transportation Board's Rules of Practice because none of the Entities is a party to the *Coal Dust II* proceeding. See 49 C.F.R. §§ 1101.2(d), 1114.26 and 1114.30. Accordingly, we have been authorized by the Entities to inform you that they will not be responding further to the Requests.

Sincerely,



William L. Slover  
John H. LeSeur  
Andrew B. Kolesar III  
Peter A. Pfohl

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35557**

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**REASONABLENESS OF BNSF RAILWAY COMPANY  
COAL DUST MITIGATION TARIFF PROVISIONS**

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**RESPONSES AND OBJECTIONS TO BNSF  
RAILWAY COMPANY'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS  
TO WESTERN COAL TRAFFIC LEAGUE**

The Western Coal Traffic League ("WCTL"), pursuant to 49 C.F.R. Part 1114, hereby responds to the First Set of Interrogatories and Requests for Production of Documents (collectively "Requests") served by BNSF Railway Company ("BNSF") on December 30, 2011.

**GENERAL RESPONSES AND OBJECTIONS**

In addition to the specific objections raised below in response to individual Requests, WCTL objects generally to BNSF's Definitions, Instructions, Interrogatories, and Requests as follows:

1. WCTL objects to BNSF's Requests to the extent that they seek documents or information protected by the attorney-client privilege and/or subject to the attorney work-product doctrine. Any production of privileged or otherwise protected documents is inadvertent and shall not constitute a waiver of any claim of privilege or other protection. In addition, WCTL objects to BNSF Instruction No. 7 (requiring

WCTL to state the specific factual and legal basis for withholding documents) on grounds of burden and relevance.

2. WCTL objects to BNSF's Requests to the extent they would impose burdens or obligations on WCTL exceeding those specified in applicable provisions of the Board's Rules of Practice at 49 C.F.R. Part 1114, as interpreted and applied in prior Board rulings, and reserves the right to supplement its objections as necessary.

3. WCTL objects to BNSF's Requests seeking WCTL to "identify," "state," "describe," or "explain," and to BNSF's Instruction Nos. 8, 9, and 10 as unduly burdensome and beyond the scope of permissible discovery to the extent the Requests would impose a burden or obligation on WCTL exceeding those specified in applicable provisions of the Board's Rules of Practice at 49 C.F.R. Part 1114.

4. WCTL objects to BNSF's Requests as unduly burdensome to the extent that they seek documents or information: (i) in BNSF's own possession; (ii) readily available from public sources; (iii) produced and/or filed in STB Finance Docket No. 35305; or (iv) the subject of WCTL's discovery requests to BNSF in this proceeding.

5. WCTL objects to BNSF's Definition No. 9 ("Member Company"), Definition No. 13 ("You" and "Your"), and Instruction No. 3 ("documents in the possession, custody, or control of You or Your Member Companies"), to the extent that they request documents or information from WCTL not in its possession, custody, or control, including, but not limited to, documents or information in the possession, custody, or control of its members. WCTL's members are not parties to this proceeding and WCTL does not control those members or their records.

6. WCTL objects to producing documents or information that is confidential, commercially sensitive, or proprietary, including sensitive nonpublic information relating to third parties, except to the extent disclosure is permitted under the protective order in this proceeding.

7. WCTL objects to BNSF's Requests to the extent they request information in a format not maintained by WCTL in the regular course of business or not readily available in the form requested by BNSF. Where a Request seeks relevant, non-privileged information in a form different from that maintained by WCTL in its ordinary course of business, WCTL will produce any responsive information in the form in which it is maintained by WCTL in the ordinary course of business.

8. WCTL objects to BNSF's Requests to the extent they seek the production of or information regarding "all documents" or "any studies" that "discuss," "analyze," "refer or relate" to a particular subject on grounds that those Requests are overly broad and unduly burdensome. WCTL will conduct a reasonable, good faith search for non-privileged, responsive information and documents.

9. WCTL objects to BNSF's Requests to the extent they would require WCTL to engage in a special study.

10. WCTL's willingness to produce some or all of the information sought by a particular Request should not be interpreted either as a waiver of WCTL's objections or as an admission that such information is relevant to the case.

11. WCTL objects to BNSF's Requests to the extent they seek information or documents created before November 1, 2009.

WCTL's following specific objections, answers and responses to BNSF's Requests are subject to, and without waiver of, the foregoing general objections.

### INTERROGATORIES

Interrogatory No. 1: Please identify "the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available," as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

Response:

Subject to and without waiving its general objections, WCTL states that the referenced "material" is identified on pages 17-22 of WCTL's August 11, 2011 Petition, including the Verified Statements and associated Exhibits cited therein.

Interrogatory No. 2: Please explain the basis for Your statement that "the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available indicates that the results and procedures are fatally flawed," as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

Response:

Subject to and without waiving its general objections, WCTL states that the referenced discussion of the flaws in BNSF's tests and procedures is explained on pages 17-22 of WCTL's August 11, 2011 Petition, including the Verified Statements and associated Exhibits cited therein. WCTL hereby incorporates those explanations by reference.

Interrogatory No. 3: Please identify and explain the basis for Your statement that "BNSF has hinted strongly in the past that it would refuse service" to shippers who do not

comply with the Coal Dust Loading Rule, as referred to at page 8 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

Response:

Subject to and without waiving its general objections, WCTL states that the basis for this statement is set forth in the record in STB Finance Docket No. 35305, and includes the following:

- Coal Shippers' Opening Evidence in STB Finance Docket No. 35305 referenced a press report stating: "A top BNSF official told utility customers this month that penalties for not meeting dust standards include a \$1 per ton fine and possibly temporarily halting service." Coal Shippers' March 16, 2010 Opening Evidence at 49 n.24 (citing Platt's Coal Trader, 'UP Letter Mulls Implications of Coal Dust Rules,' October 19, 2009).

- BNSF's Opening Evidence in STB Finance Docket No. 35305 stated that "BNSF would reserve the right to decline to provide service" if a shipper failed to adhere to BNSF's coal dust tariff. BNSF Opening Evidence at 26-27.

- Coal Shippers discussed BNSF's threatened refusal to provide service in their Reply Evidence and their Rebuttal Evidence in STB Finance Docket No. 35305. *See, e.g.*, Coal Shippers' April 30, 2010 Reply Evidence at 28-32; Coal Shippers' June 4, 2010 Rebuttal Evidence at 67-68.

Interrogatory No. 4: Please identify any studies or analyses that You or a Member Company are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request to the extent that it seeks information regarding studies or analyses performed by BNSF or its consultants and which therefore are available from BNSF's own files. In addition, WCTL objects to this Request to the extent that it seeks information regarding studies or analyses that were produced or filed in STB Finance Docket No. 35305. WCTL also objects to this Request to the extent that it seeks information regarding "any studies or analyses" that "evaluate, estimate, or otherwise refer or relate" to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that through its counsel, it is aware of studies and information from the record in STB Finance Docket No. 35305 referring or relating to the costs of coal dust suppression products or services. Some of those studies or analyses were addressed in filings made by the parties in STB Finance Docket No. 35305. *See, e.g.*, Coal Shippers' March 16, 2010 Opening Evidence at 37-39, Crowley V.S. at 4-6; Coal Shippers' June 4, 2010 Rebuttal Evidence at 56-58, Crowley Reb. V.S. at 14-17.

Interrogatory No. 5: Please explain the basis for Your statement that the estimated cost of complying with the Coal Dust Loading Rule is "in the \$50 million to \$150 million range annually," as referred to at page 24 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation and at page 4 of the August 4, 2011 Verified Statement of Duane L. Richards.

Response:

Subject to and without waiving its general objections, WCTL states that the basis for the statement on page 24 of the August 11 Petition was Mr. Richards' Verified Statement. In addition, WCTL states that Mr. Richards explained that the basis for his referenced statement was an estimate from the National Coal Transportation Association ("NCTA"). *See Richards V.S.* at 4 ("I would add here that while no one knows how much it will cost to spray all PRB trains, the National Coal Transportation Association has estimated that these costs will be in the \$50 million to \$150 million range annually."). That estimate appears on page 6 of NCTA's March 16, 2010 Opening Statement in STB Finance Docket No. 35305.

Interrogatory No. 6: Please describe the formation, organization, and operation of WCTL, including but not limited to:

- (a) the type of entity (association, corporation, or other type of entity), if any, that WCTL is organized as;
- (b) the jurisdiction, if any, where WCTL has filed any organizational documents;
- (c) the identity of WCTL's Member Companies;
- (d) the frequency of meetings held by WCTL; and
- (e) the services provided by WCTL to Member Companies, other than participating in litigation.

Response:

WCTL objects to this Request on grounds that it seeks information regarding WCTL's organization, meetings, membership, and services that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving its general and specific objections, WCTL states that it is an unincorporated, voluntary association comprised of shippers of coal produced from United States mines located west of the Mississippi River. WCTL's principal mission is to promote the interests of such shippers, particularly with respect to the subject of coal transportation. WCTL members include publicly traded companies, local governments, cooperatives, and government authorities.

WCTL provides forums to discuss various policy and regulatory matters of interest to its members. WCTL holds two meetings each year (Fall and Winter) where emerging legislative and regulatory developments are discussed. Speakers at WCTL's meetings have included, for example, STB Chairman Elliott, STB Vice Chairman Mulvey, STB Commissioner Begeman, STB Staff, Capitol Hill staff, representatives of various administrative agencies, national coal and transportation association representatives, Congressional Research Service staff, and a number of distinguished transportation industry members, including but not limited to Mr. Robert Krebs.

WCTL further states that its members currently are: Ameren Energy Fuels & Services, Arizona Electric Power Cooperative, Inc., Austin Energy, CLECO Corporation, CPS Energy, Entergy Services, Inc., Kansas City Power & Light Company, Lower Colorado River Authority, MidAmerican Energy Company, Minnesota Power, Nebraska Public Power District, Omaha Public Power District, Texas Municipal Power Agency, Western Farmers Electric Cooperative, Western Fuels Association, Inc., and Wisconsin Public Service Corporation.

Interrogatory No. 7: Please identify each Member Company that has caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5. Moreover, WCTL objects to this Request to the extent that BNSF already is aware of the identity of coal shippers who have caused Topper Agents to be applied to their railcars since July 1, 2010.

Subject to and without waiving its general and specific objections, WCTL states that one member has informed WCTL that it has applied a Topper Agent to at least one railcar since July 1, 2010.

Interrogatory No. 8: Please identify each Member Company that has caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed WCTL that it has caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

Interrogatory No. 9: Please describe arrangements that any of Your Member Companies have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed it regarding arrangements with coal mines and/or suppliers of coal dust suppression products or services for the future application of Topper Agents to rail cars loaded with coal.

Interrogatory No. 10: Please describe arrangements that any of Your Member Companies have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed it regarding specific arrangements with coal mines and/or suppliers of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

Interrogatory No. 11: Please describe requests made by any of Your Member Companies to a coal mine or a supplier of coal dust suppression products or services for estimates of

the costs to apply coal dust suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed it of: (i) requests made to coal mines and/or suppliers of coal dust suppression products or services for estimates of the costs to apply coal dust suppression products or services; or (ii) any responses given to such requests.

Interrogatory No. 12: Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by any of Your Member Companies to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request on grounds of relevance.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed it regarding specific coal dust suppression products or services employed to reduce the amount of coal that is lost from coal stockpiles at power generating facilities and/or the cost of applying any such coal dust suppression products or services.

## REQUESTS FOR PRODUCTION

Document Request No. 1: Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You, a Member Company, or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks “all documents” that “contain, reflect, or otherwise refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 2: Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request to the extent that it seeks “all documents” that “discuss, analyze, or otherwise refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 3: Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You or a Member Company and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request to the extent that it seeks “all documents” that “refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged,

responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 4: Please produce all documents that refer or relate to Your plans or the plans of Your Member Companies to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request to the extent that it seeks “all documents” that “refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 5: Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request to the extent that it seeks “all documents” that

“discuss, analyze, or otherwise refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 6: Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks “all documents” that “discuss, analyze, or otherwise refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 7: Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request on grounds of relevance and to the extent that it seeks “all documents” that “discuss, analyze, or otherwise refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 8: Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request on grounds of relevance and burden. WCTL also objects to this Request to the extent that it seeks “all” documents “referring or relating” to

the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any.

Document Request No. 9: Please produce all formation and organizational documents regarding WCTL, including but not limited to articles of incorporation, certificates of registration, and by-laws.

Response:

WCTL objects to this Request on grounds that it is not reasonably calculated to lead to the discovery of relevant evidence in this proceeding.

Document Request No. 10: Please produce all documents that refer or relate to communications between You or a Member Company and any Person regarding the Coal Dust Loading Rule.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request to the extent that it seeks “all documents” that “refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged,

responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 11: Please produce all documents supporting, contravening, or otherwise referring or relating to Your statement that “the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available indicates that the results and procedures are fatally flawed,” as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks “all” documents “supporting, contravening, or otherwise referring or relating” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 12: Please produce all documents supporting, contravening, or otherwise referring or relating to Your statement that the estimated cost of complying with the Coal Dust Loading Rule is “in the \$50 million to \$150 million range annually,” as referred to at page 24 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation and page 4 of the August 4, 2011 Verified Statement of Duane L. Richards.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks “all” documents “supporting, contravening, or otherwise referring or relating” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 13: Please produce all documents identified in Your responses to BNSF’s Interrogatories, and all documents that contain facts upon which Your responses to BNSF’s Interrogatories are based.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Respectfully submitted,

THE WESTERN COAL TRAFFIC LEAGUE

By: William L. Slover  
John H. LeSeur  
Andrew B. Kolesar III   
Peter A. Pfohl  
Slover & Loftus LLP  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036  
(202) 347-7170

Dated: January 17, 2012

Attorneys for Complainant

## CERTIFICATE OF SERVICE

I hereby certify that, this 17th day of January, 2012, I have caused copies of the above discovery responses and objections to be served by electronic mail and by U.S.

Mail first class postage prepaid on parties of record in this proceeding:

Samuel M. Sipe, Jr., Esq.  
Anthony J. LaRocca, Esq.  
Kathryn J. Gainey, Esq.  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Eric Von Salzen, Esq.  
McLeod, Watkinson & Miller  
One Massachusetts Ave., N.W.  
Suite 800  
Washington, D.C. 20001

Sandra L. Brown, Esq.  
Thompson Hine LLP  
1920 N Street, N.W., Suite 800  
Washington, D.C. 20036

Mr. Thomas C. Canter  
4 West Meadow Lark Lane # 100  
Littleton, CO 80127-2798

Christopher S. Perry, Esq.  
U.S. Department Of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

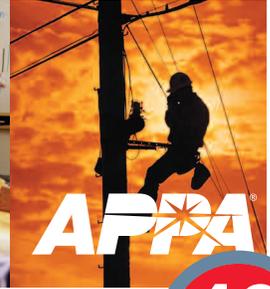
Michael L. Rosenthal, Esq.  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2401



Andrew B. Kolesar III

# Exhibit 5

# American Public Power Association



**46**  
million

Number of people served by public power

## Public Power's United Voice in Washington, D.C.

APPA is a non-partisan organization, committed to advocating national policies that will ensure the viability and progress of community-owned, customer-driven, not-for-profit electric utilities.

Policy positions emphasize the importance of hometown decision making that puts customers first and ensures a stable supply of electricity while protecting the environment.

Since two-thirds of public power utilities do not generate their own electricity and instead buy it on the wholesale market for distribution to customers, securing competitively priced and reliable wholesale power is a priority.

APPA participates in a wide range of legislative and regulatory forums. It advocates policies that:

- ensure reliable electricity service at competitive costs;
- advance diversity and equity in the electric utility industry;
- promote effective competition in the wholesale electricity marketplace;
- protect the environment and the health and safety of electricity consumers and;
- safeguard the ability of communities to provide infrastructure services—such as community broadband networks—their consumers require.



The American Public Power Association (APPA) was created by and for the nation's more than 2,000 not-for-profit, community- and state-owned electric utilities to:

- Advance the national public policy interests of its members and their consumers.
- Provide services to help ensure adequate, reliable electricity at a reasonable price with proper protection of the environment.

# American Public Power Association

Providing national representation and services to community- and state-owned electric utilities

APPA was created in September 1940 as a world war loomed. The nation's municipal utilities recognized their need to unite in support of national defense, as well as to create a national service organization that would represent their common interests. Today, the increasing complexity of the electric utility industry and federal government involvement in it has intensified the need for a national association.

## Members are APPA's Guiding Lights

The executives and elected and appointed policymakers who work for and oversee APPA's member organizations are its guiding lights. APPA is governed by a board of directors, which is comprised of 30 elected members from 10 geographic regions, five officers, and the chairs of the Policymakers Council and the Advisory Committee. More than 4,500 men and women participate in specialized APPA committees, task forces, and online forums that help to develop an array of policy positions and services. About 60 staff members serve the membership.

# Powerful Member Services Promote Education and Networking

## Representation before Congress, federal agencies, and the courts

APPA is the national advocate for public power in Washington, D.C., on legislative and regulatory issues, and in legal proceedings. APPA lobbies public power positions, and monitors and reports on federal events and activities. The Legislative & Resolutions Committee gives all utility members an opportunity to develop consensus on issues, as do task forces, committees, and work groups. The annual Legislative Rally brings managers and policymakers to Washington, D.C., to tell the public power story.

Collection, analysis, and dissemination of information *Public Power Weekly* newsletter, *Public Power* magazine, and *Public Power Daily* are respected throughout the country as timely, reliable sources of information about public power and the industry. APPA's website at [www.PublicPower.org](http://www.PublicPower.org) provides information for a variety of audiences. Specialized publications, reports, surveys, and Internet-based networking groups inform and educate in various utility disciplines.

## Educational programs and services

APPA offers many opportunities to learn from and network with colleagues, utility experts, and local and national policymakers. The annual National Conference is the largest public power meeting. Other annual meetings cover business and financial, engineering and operations, legal, community broadband, and customer and community services topics. APPA also conducts smaller professional-development courses and provides a variety of continuing education and consumer-oriented materials.

## Funding for research and development programs

The Demonstration of Energy-Efficient Developments (DEED) program provides grants to APPA-member utilities and students from public power communities. Projects explore techniques and technologies that could be widely applicable to public power.

## Recognition of utilities and individuals for excellence

Major awards are given at APPA's National Conference to executives and policymakers who have advanced public power's goals, as well as to utilities that have met the highest standards. Throughout the year, others are recognized for safety records, reliability, annual reports, lineworker skills, continuing education, and dedication to energy innovation.

## Competitively priced products and services

Hometown Connections, a subsidiary, secures group discounts for APPA members in a variety of areas, including advanced meter reading systems, customer information software, SCADA systems, broadband over powerline services, and customer and employee research. More information is available at [www.HometownConnections.com](http://www.HometownConnections.com)

## About APPA Members

Most public power utilities are owned by municipalities, with others owned by counties, public utility districts, and states. Regular APPA membership (with voting and committee privileges) is open to U.S. public power utilities, joint action agencies (state and regional consortia of public power utilities); rural electric cooperatives;

Canadian municipal/provincial systems; public power utilities within U.S. territories and possessions; and state, regional, and local associations in the United States and Canada that have purposes similar to APPA. The association also welcomes associate memberships from entities and individuals that have an interest in doing business with public power, and from cities and towns exploring the possibility of establishing public power utilities.



## Facts About APPA Services:

61

Percentage of public power customers served by utilities participating in APPA's TREE POWER planting program

683

Number of utilities taking part in APPA's DEED (Demonstration of Energy-Efficient Developments) program

10,000

Number of people who receive APPA's weekly newsletter

44,500

Number of unique monthly visitors to APPA's website [www.PublicPower.org](http://www.PublicPower.org)



### What is the APPA Academy?

The APPA Academy is public power's complete resource for education and certification. Through a variety of delivery methods - live education courses, in-house training, conferences, webinars, list servers, online courses and work force development partnerships - the APPA Academy helps electric utility employees stay abreast of rapidly moving industry technologies and regulatory requirements in formats and price ranges that suit employee needs.



## Conferences

- [Business & Financial Conference](#)
- [Customer Connections Conference](#)
- [Economic Development Conference](#)
- [Engineering & Operations Technical Conference](#)
- [Legal Seminar](#)
- [Legislative Rally](#)
- [National Conference & Public Power Expo](#)

[View all Conferences >](#)

## Certificate Programs

- [Customer Service Management Certificate Program](#)
- [Energy Efficiency Management Certificate Program](#)
- [Key Accounts Certificate Program](#)
- [Public Power Manager Certificate Program](#)

[View all Certificate Programs >](#)

## Education Courses & Workshops

- [Education Institutes & Workshops](#)
- [Pre-Conference Seminars](#)

[View all Courses & Workshops >](#)

## In-House Training

Let APPA bring education programs to you.

[View the In-House Training Program >](#)

## Accreditation/Certification

- [Learn more](#) about each of the specific programs

## Webinar Series

A phone and a computer with Internet access are all that's needed for everyone at the utility to participate, for one low price.

- [View Upcoming Webinars](#)

## Online Training

- [Webinar Series](#)
- [List Servers](#)
- [College-Level Courses through the Energy Providers Coalition for Education \(EPCE\)](#)

## Work Force Development Partnerships

- [Careers in Public Power](#)
- [College-Level Courses through the Energy Providers Coalition for Education \(EPCE\)](#)

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The American Public Power Association  
1875 Connecticut Ave. NW, Suite 1200  
Washington, DC 20009-5715

Tel: 202.467.2900 or 800.515.2772  
Fax: 202.467.2910

# Exhibit 6

[Industry Financial  
Analysis](#)
[Industry Data](#)
[Advertising](#)

## INDUSTRY DATA

[Capacity](#) | [Generation](#) | [Fuel Mix](#) | [Emission Reductions](#)  
| [Energy Efficiency](#) | [Customers, Sales, Revenues](#) | [Financial](#) |  
[Transmission](#) | [More for Members](#)

### Statistical Highlights

EEI maintains comprehensive statistical data on the electric industry and shareholder-owned electric companies. Below are quick statistical highlights providing an overview of the electric power industry. For more detailed information see: [Products and Services](#).

### FOLLOW US



### Capacity

The U.S. electric power industry's total installed generating capacity was 1,119,673 megawatts (MW) as of December 31, 2009—a 1.0-percent increase from 2008.

U.S. shareholder-owned installed generating capacity was 406,539 MW as of December 31, 2009. This accounts for approximately 36 percent of total electric power industry installed capacity.

Non-utility owned installed generating capacity grew from 471,102 MW in 2008 to 476,502 in 2009.

### Generation

In 2009, total U.S. electricity generation was 3,949,694 gigawatt-hours (GWh)—a 4.1percent decrease from 2008.

U.S. shareholder electric companies accounted for 1,561,291 GWh, or 39.5 percent, of total U.S. electricity generation.

Electricity generation at non-utility-owned plants totaled 1,542,020 GWh and accounted for 39.0 percent of the total electricity generation in the United States.

Read more about [Electricity Generation](#).

### Fuel Mix

#### 2010 National Fuel Mix

Coal provided 44.9 percent of our nation's electricity.

Natural gas supplied 23.8 percent.

Nuclear energy produced 19.6 percent.

Hydropower provided 6.1 percent of the supply.

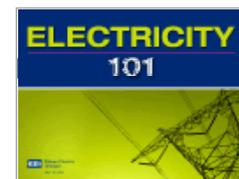
Other renewable resources, such as geothermal, solar, and wind, provided 4.1 percent.

Fuel oil provided 0.9 percent of the generation mix.

### QUICK LINKS

[EEI's New Logo](#)  
[Committees](#)  
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[Press Releases](#)  
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[EEI Careers](#)

### FEATURE



[Electricity 101](#)  
Read an overview of the electric power industry.

Other miscellaneous sources provided 0.6 percent.

Learn more about the [Diverse Fuels](#) used to generate electricity.

### Emission Reductions

The U.S. electric power sector has reduced air emissions substantially under existing programs. Over the past 30 years, the industry has cut sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) emissions by about 70 percent.

Ozone emissions in the eastern United States have been cut by 80 percent. These efforts also cut emissions of mercury by about 50 percent.

Read more about our industry's [Climate Actions](#).

### Energy Efficiency

From 1989 - 2010, electric utility efficiency programs saved about 1,171 billion kilowatt-hours (kWh) of electricity.

These efficiency programs saved enough electricity to power 102 million average U.S. homes for one year (based on 2010 average residential usage of 11,500 kWh/year).

Learn more about the electric utility industry's [energy-efficiency efforts](#).

### Customers, Sales, and Revenues

In 2009, the average number of ultimate customers served by the electric industry totaled 143,497,060—a 0.2 percent increase from 2008.

The average electricity use per customer was 25,066 kilowatt-hours (kWh).

Total electric utility revenues from sales to ultimate customers equaled \$353 billion—a 2.8 percent decrease from 2008.

The average revenue received per kWh sold was 9.83 cents.

According to the Energy Information Administration's preliminary 2010 data, electricity demand increased 4.3 percent in 2010, and is projected to decrease 1.5 percent in 2011. Overall, electricity demand is expected to increase a total of 19.5 percent from 2010 to 2035.

### Financial

In 2010, total energy operating revenues of shareholder-owned electric companies were \$371.5 billion.

Consolidated holding company-level assets of shareholder-owned electric companies were \$1,134.9 billion as of December 31, 2010.

Of these assets, \$664.4 billion were net property in service.

Total market capitalization of U.S. shareholder-owned electric companies was \$407.3 billion on December 31, 2010.

Read more financial statistics in [EEI's Financial Review](#).

## Transmission

Shareholder-owned electric utilities spent approximately \$10.2 billion on transmission investment in 2010, compared to \$9.3 billion in 2009 (in nominal dollars).

Shareholder-owned electric utilities are planning to continue increasing their transmission investments, from approximately \$12.6 billion in 2011 to \$13.5 billion in 2014.

Read more about the electricity [Transmission System](#).

Access [Construction Expenditure Data](#)  from the shareholder-owned electric utilities sector.

## More for Members

Many of EEI's for-sale statistical products are free to EEI members using their login. Print copies of the publications can be [Purchased](#) for an additional cost.

### [Glossary of Electric Industry Terms](#)

This invaluable reference gives you practical definitions for terms commonly used throughout the electric power industry – plus the meanings of the latest terminology.

### [Profiles and Rankings of Shareholder-Owned Electric Companies](#)

A resource for company-level information and key comparative industry data on most shareholder-owned electric companies.

### [Statistical Yearbook of the Electric Utility Industry](#)

The premier reference source for electric utility operations and financial performance statistics.

### [Weekly Electric Output](#)

Provides up-to-date electric output data for nine geographic areas, as well as the U.S. total (electronic subscription).

## EEI Staff Contacts

Chris Eisenbrey  
[ceisenbrey@eei.org](mailto:ceisenbrey@eei.org) or 202-508-5574

Stephen Frauenheim  
[sfrauenheim@eei.org](mailto:sfrauenheim@eei.org) or 202-508-5580

Peggy Suggs  
[psuggs@eei.org](mailto:psuggs@eei.org) or 202-508-5572

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## CONTACT EEI

EEI's Web site contains a wealth of resources on the electric power industry. If you need more information on a specific issue or are unable to find what you are looking for, please contact us.

### By Phone

[EEI Staff Directory](#)

Members may search for EEI topics and staff experts by using the Ask EEI Staff Directory.

All others may call 202-508-5000.

### By E-mail

#### General Inquiries

**Web Site Comments and Questions - [feedback@eei.org](mailto:feedback@eei.org)**

Need help finding what you need? Try EEI's [Advanced Search](#) or use our [Site Map](#).

#### EEI Members-Only

**U.S. Shareholder-Owned Electric Companies - [members@eei.org](mailto:members@eei.org)**

EEI's U.S. shareholder-owned electric company members serve 95 percent of the ultimate customers in this segment of the industry, and represent approximately 70 percent of the U.S. electric power industry.

**International Affiliates Membership - [affiliates@eei.org](mailto:affiliates@eei.org)**

EEI provides the critical link bringing together electric companies around the world with the U.S. electric power industry. This special membership offers electric companies outside the United States the opportunity to join EEI regardless of ownership form.

**Associate Membership - [associates@eei.org](mailto:associates@eei.org)**

EEI Associate Member Program assists vendors and/or suppliers interested in better understanding and working more closely with the electric power industry. Please send inquiries regarding Associate membership benefits, dues, and Associate member IDs/passwords.

#### Issue-Specific Inquiries

**Electric Solutions - [electricsolutions@eei.org](mailto:electricsolutions@eei.org)**

Electricity, through new, highly-efficient electric appliances and equipment, is making homes more satisfying, and businesses more profitable. Inquiries regarding residential, commercial, or industrial technologies are welcome.

**Environment - [environment@eei.org](mailto:environment@eei.org)**

Questions about power industry environmental programs, press releases, and educational efforts. Questions posed by EEI members should be directed to the Environmental Affairs Division.

#### QUICK LINKS

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[Briefs](#)  
[Press Releases](#)  
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**Human Resources/Jobs - [hrweb@eei.org](mailto:hrweb@eei.org)**

Inquiries concerning employment opportunities at EEI.

**Media Relations - [news@eei.org](mailto:news@eei.org)**

Inquiries from the media and EEI members, regarding issues of interest to EEI and its members. The [Newsroom](#) contains press releases, EEI statements, op-eds, and letters to the editor, and facts/resources, as well as a staff contacts guide.

**Meetings and Expos - [meetings@eei.org](mailto:meetings@eei.org)**

Questions regarding upcoming meetings? Check out our list of [meetings](#) and communicate directly with the appropriate staff contact.

**Products and Services - [EEIOnline@eei.org](mailto:EEIOnline@eei.org)**

Inquiries concerning for-sale publications only! Please include the item number in your email. For questions on EEI publications not listed in [Products and Services](#), members may visit the [IRC online](#) . To place an order or inquire about an order already placed, please call 800-EEI-5453 (US/Canada) or 301-645-4222 (International).

**By Mail**

Edison Electric Institute  
701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2696  
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# Exhibit 7



## Membership Benefits

### Focus on Coal Transportation

Your company may belong to more industry associations than just the NCTA, but no other association provides the unique combination of education and real world results that come from NCTA membership. The financial impact associated with the procurement and delivery of coal demands this focus. The NCTA continues to have a high level of national prominence and credibility by participating in hearings, workshops, symposiums, coordination with ad hoc coalitions, providing resource material for governmental agencies, negotiating and educating on issues of general membership concern with carriers.

### Conferences with Character

For three days in the spring and fall of each year the NCTA provides coal industry professionals with an exclusive opportunity to share their outlook and knowledge and to exchange ideas. NCTA conferences provide its members the opportunity to learn from the experiences of others who have similar responsibilities and from outside experts, in an open and noncompetitive environment. Think of the ideas you can borrow, the pitfalls you can avoid and the valuable insight you can give and receive.

### Logistics and Planning Subcommittees

The Eastern and Western Logistics and Planning Subcommittees do much of the heavy lifting to solve problems with respect to the efficient operation of the coal delivery process. An important source of strength is our working committee system that is made possible by the dedication and expertise of our member representatives and the carriers.

### Operations and Maintenance Subcommittee

For companies which do not have the resources, or have diminished resources to support company representation on industry and consensus-based technical panels, the O&M subcommittee helps to fill this gap. The annual conference program provides excellent information on new technologies and best practices for coal car design, maintenance, and repair.

### Access to Railcar Leasing Exchange Board

NCTA members have exclusive access to a railcar leasing exchange board where excess train capacity can be posted for lease and where members can post railcar needs. With 60,000 to 70,000 private cars owned and operated by NCTA members when you need to adjust your capacity requirements, this one place to start.

### Commitment to Education

Education is a hallmark of the NCTA. NCTA educates its members through its annual conferences and publications. The NCTA also supports education through its scholarship program that awards scholarships to students in transportation at several major universities as well as to the dependent sons and daughters of employees of member companies.

### Policy Insights

The Board of Directors continues to meet in Washington, D.C. each year to visit governmental agencies and other trade associations. Maintaining a presence in Washington enables NCTA to have input into federal policymaking and to better represent member concerns on federal issues. NCTA fosters

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relationships with key personnel and departments within the Department of Energy, the Department of Transportation, the Surface Transportation Board, the Federal Railroad Administration, and with various elected representatives. NCTA is an educational entity and does not officially lobby for or against legislation. However, we do actively participate with a position in hearings and rulemaking proceedings of interest to our membership.

#### **Publications**

Through its website, NCTA communicates with the world about the coal industry and with NCTA active and associate member companies – linking potential customers to its members and linking its members to other useful web sites throughout the Internet. A "Members Only" section provides detailed member contact information, valuable information on current subcommittee initiatives, a railcar leasing marketplace, conference presentation archives and other items of interest exclusively to NCTA members.

The NCTA also publishes the semi-annual magazine the Coal Transporter which keeps members up-to-date on new technologies, upcoming conferences, subcommittee activities, STB proceedings, and other coal news of national and international importance. The magazine also contains feature articles and interviews with industry participants, regulators, and members in the know.

If you are interested in advertising in the Coal Transporter please contact us. To get on the mailing list, you can sign up online using the form found on the Contact Us page.

Membership in the NCTA is a sound business decision with a solid return on investment, and we look forward to serving you. Our logo – the symbol of NCTA membership – brings credibility like no other, backed by a long history of member company participation and know-how. A member company of the National Coal Transportation Association is not just another utility, coal supplier, railroad equipment company, or coal related services organization... it is part of a tradition of excellence, and, through its affiliation with the NCTA, signals an exceptional commitment and obligation to the market, its customers and to the public.

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### Coal Transporter

The NCTA publishes the semi-annual magazine the *Coal Transporter* which keeps members up-to-date on new technologies, upcoming conferences, subcommittee activities, STB proceedings, and other coal news of national and international importance. The magazine also contains feature articles and interviews with industry participants, regulators, and members in the know.

In its sixth year of publication, the magazine contains primarily original editorial and enjoys a growing readership and level of advertising support. Editorial content is divided into three categories, Features, Departments and Conferences. Regular features include Board and Member Company profiles, STB and FRA updates, AAR Interchange/Office Manual rule reviews, market supply and demand updates, infrastructure facilities, new technologies and reflections of long time industry participants. Department content includes thought provoking messages from the NCTA's President and its Executive Director, recognition of new members, committee updates, statistics, calendar of events, full membership listing, member sound off responses, and a bit of humor in the "view from the caboose". The conference sections profile upcoming events and recap highlights of recent events in both words and images.

Editorial and advertising deadlines for 2012 are:

Issue 1 2012 January 20, 2012

Issue 2 2012 June 29, 2012

# Exhibit 8



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## Education and Training

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NRECA's Education and Training department operates much like a community college, offering more than 250 classes and professional development programs for the elected leaders and employees of member cooperatives.

### For directors:

Education is the cornerstone of effective self-governance: cooperative consumer-members are best served by directors – the cooperative's elected leaders -- who are well-versed in democratic principles and who understand the industry and how this industry can move forward to meet changing demands.

NRECA provides the following programs for directors:

- **Credentialed Cooperative Director (CCD) Certificate** – This curriculum emphasizes foundational governance knowledge in addition to skills required of electric cooperative directors.
- **Board Leadership Certificate (BLC)** – This curriculum extends the core CCD program, providing greater depth on industry, governance, risk management, rate making, and policy development. More than 62 percent of eligible directors have earned CCD credentials while just over 25 percent have obtained BLC distinction.
- **Directors' Conference** --NRECA's annual Directors' Conference offers classroom instruction and enrichment opportunities through exposure to industry experts, specialized work in small-group learning labs, and interactions with peers.
- **NRECA Annual Meeting**--The NRECA Annual Meeting, which attracts upwards of 5,000 members, showcases national and world-class industry, technology and legislative experts. Delegates attending the Annual Meeting set NRECA's legislative and organizational agenda for the following year. In addition to considering and acting upon policy resolutions, delegates receive reports from NRECA officials, hear addresses by key public figures and business experts, and attend educational forums on major issues affecting electric co-ops and their consumer- owners.
- **Regional Meetings** --NRECA Regional Meetings occur each fall across the nation and enable thousands of cooperative leaders to discuss challenges on a grassroots level as well and hear from top-rated speakers.

### For cooperative employees:

To help cooperative staff provide the best possible service to members NRECA offers classroom-based and online instruction in many disciplines that include supervisory skills, communications, engineering, safety and management.

Several of these classes are based in our satellite facility at the University of Wisconsin Fluno Center for Executive Education.

For high-level cooperative employees, NRECA offers the Robert I. Kabat Management Internship Program at The University of Wisconsin is. This intensive program provides technical, conceptual and leadership training over a six-week period.

### NRECA offers cooperative employees educational conferences in the following areas:

- Human Resources
- Accounting, Finance and Tax
- Executive and Administrative Assistant skills
- Communications and Member Services.

NRECA also sponsors TechAdvantage, a premier event for co-op executives and managers that emphasizes cutting-edge technologies in such areas as IT, utility and power management, supply chain and loss control.

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