

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

WESTERN FUELS ASSOCIATION, INC.	)	238400
and BASIN ELECTRIC POWER	)	
COOPERATIVE, INC.	)	ENTERED
	)	Office of Proceedings
	)	May 15, 2015
Complainants,	)	Part of
	)	Public Record
v.	)	Docket No. 42088
	)	
BNSF RAILWAY COMPANY	)	
	)	
Defendant.	)	
	)	

**JOINT PETITION TO VACATE RATE PRESCRIPTION, DISMISS THE  
COMPLAINT WITH PREJUDICE AND DISCONTINUE THIS PROCEEDING**

Complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. (“WFA/Basin”) and Defendant BNSF Railway Company (“BNSF”) (collectively the “Parties”) submit this Joint Petition and in support hereof state as follows:

1. This case is currently before the Board on remand from the United States Court of Appeals for the District of Columbia Circuit. *See BNSF Ry. v. STB*, 741 F.3d 163 (D.C. Cir. 2014).

2. On January 28, 2015, the Parties filed a Joint Petition to Hold Proceeding In Abeyance. In that filing, the Parties informed the Board that they had reached a preliminary settlement agreement that called for the dismissal of this case and vacation of the existing rate prescription that was the subject of the remand. The Parties

also informed the Board that their settlement agreement was contingent upon the Parties' development and execution of a rail transportation agreement and jointly requested that the Board hold further proceedings in this docket in abeyance pending resolution of the Parties' contract discussions. In its notation decision served on January 30, 2015, the Board granted the Parties' request to hold this proceeding in abeyance.

3. The Parties have now completed their discussions and have entered into a rail transportation agreement settling all matters at issue in this proceeding. Pursuant to their agreement, the Parties jointly request that (i) the Board vacate the rate prescription it entered in this proceeding in 2009; (ii) dismiss WFA/Basin's complaint with prejudice; and (iii) discontinue this proceeding.

4. Granting these requests "is consistent with the Board's longstanding policy of encouraging private resolution of disputes through voluntary negotiations whenever possible." *CF Indus. Inc. v. Kanab Pipe Line Partners, L.P.*, Docket No. 42084, slip op. at 2 (STB served Nov. 21, 2006). In addition, the 2009 rate prescription applies only to coal transported by BNSF to WFA/Basin's Laramie River Station. No other railroad or shipper will be affected by its vacation.

WHEREFORE, for the reasons set forth above, WFA/Basin and BNSF jointly request that the Board grant the requests set forth in this Petition.

Respectfully submitted,

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

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