

225607

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

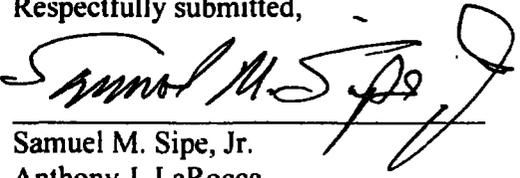
_____)
WESTERN FUELS ASSOCIATION, INC.,)
and BASIN ELECTRIC POWER)
COOPERATIVE)
)
	Complainants,)
v.)
)
BNSF RAILWAY COMPANY)
)
	Defendant.)
_____)

Docket No. 42088 (Sub-No.1)

NOTICE OF FILING OF VERIFIED NOTICE OF COMPLIANCE

Pursuant to 49 C.F.R. § 1119.1, attached is a Verified Notice of Compliance with the Board's Order served July 27, 2009 in Docket No. 42088 (Sub-No.1). BNSF Railway Company ("BNSF") has conferred with counsel for Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. ("WFA/Basin") and counsel for WFA/Basin has authorized us to state that WFA/Basin agree that the rates established by BNSF for the Third Quarter 2009 comport with the Board's July 27, 2009 Order.

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

Respectfully submitted,


Samuel M. Sipe, Jr.
Anthony J. LaRocca
Frederick J. Horne
STEPTOE & JOHNSON LLP
1330 Connecticut Ave. N.W.
Washington, D.C. 20036
(202) 429-3000

ATTORNEYS FOR DEFENDANT

August 26, 2009

STB Docket No. 42088 (Sub-No.1)

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

v.

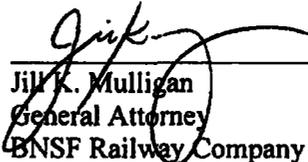
BNSF RAILWAY COMPANY

VERIFIED NOTICE OF COMPLIANCE

I, Jill K. Mulligan, verify under penalty of perjury that BNSF Railway Company has complied with the Board's order in this proceeding served July 27, 2009, by establishing rates that are consistent with that decision. The rates are published in BNSF Common Carrier Pricing Authority BNSF 90077. That publication is attached to this Verified Notice and may also be found at:

<http://newdomino.bnsf.com/website/prices.nsf/PriceRpt?Open&cmOther%20Unit%20Train>.

Simultaneously with the filing of this Verified Notice of Compliance with the Board, a copy of this Verified Notice will be served on counsel for Complainants. I further certify that I am qualified and authorized to file this Verified Notice of Compliance.



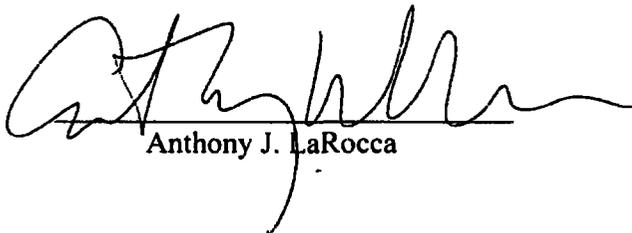
Jill K. Mulligan
General Attorney
BNSF Railway Company
2500 Lou Menk Drive
Forth Worth, TX 76131
(817) 352-2353

Dated: August 26, 2009

CERTIFICATE OF SERVICE

I, Anthony J. LaRocca, hereby certify that on August 26, 2009, I caused a true and correct copy of the foregoing Verified Notice of Compliance to be served by hand on the following:

John H. LeSeur
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036



Anthony J. LaRocca

**BNSF RAILWAY COMPANY
COMMON CARRIER PRICING AUTHORITY BNSF 90077
Version 7**

Effective Date: **August 26, 2009**

Expiration Date: Effective until changed, superseded or cancelled.

Commodity: Raw sub-bituminous Coal, STCC 11-21-Series
(excluding artificially dried or processed coal).

Origins: Wyoming Powder River Basin Mines listed below.

Destination **Laramie River Generating Station located near Moba, WY.**

Route: BNSF Direct.

Fuel Surcharge: Not applicable.

Effective Rates: All rates are expressed in U.S. Dollars per net lading ton (2000 pounds avoirdupois) in Shipper provided railcars without charge to BNSF.

Mine Area	Mine and Mine Origin Junction	Rate (pnt)
Southern Mines	Antelope (Converse Jct., WY)	\$3.52
	Black Thunder (Thunder Jct., WY)	\$4.08
	Jacobs Ranch (Jacobs Jct., WY)	\$4.22
	North Antelope (Nacco Jct., WY)	\$3.68
Central Mines	Belle Ayr (Belle Ayr Jct., WY)	\$4.60
	Caballo (Caballo Jct., WY)	\$4.67
	Caballo Rojo (Rojo Jct., WY)	\$4.60
	Cordero (Cordero Jct., WY)	\$4.47
Northern Mines	Buckskin (Buckskin Jct., WY)	\$5.33
	Dry Fork (Dry Fork Jct., WY)	\$5.17
	Eagle Butte (Eagle Jct., WY)	\$5.26
	Rawhide (Rawhide Jct., WY)	\$5.22

The aforementioned rates are subject to a minimum annual volume of 7,000,000 tons per year

Minimum Basis For Freight Charges and Railcar Weights:

The minimum lading per rail carload is 119 tons ("Minimum Lading"). The minimum tender per shipment is 136 Railcars ("Minimum Tender"). The minimum basis for the assessment of freight charges per shipment shall be THE GREATER OF 1) 16,184 tons per train (that is, the Minimum Lading times the Minimum Tender or 136 x 119) multiplied by the then current applicable rate, OR 2) the actual lading weight of the train multiplied by the then current applicable rate.

Shipper shall be granted relief from Minimum Tender due to BNSF's failure to fill out the train to 136 Railcars. Weights shall be ascertained at origin by shipper, its agent, or the coal mine operator, at no charge to BNSF, and will be provided to BNSF via either electronic data interchange or facsimile upon release of a loaded train. BNSF shall have the right to inspect and certify the origin scales. All Railcars are subject to a maximum gross load limit of 286,000 pounds.

BNSF RAILWAY COMPANY
COMMON CARRIER PRICING AUTHORITY BNSF 90077
Version 7

Railcar Supply and Tender Requirements:

Shipper shall supply enough Railcars to fill three (3) unit trains with 136 Railcars per train plus an appropriate number of spare Railcars. Claims for damage to or destruction of shipper Railcars shall be handled in accordance with the procedures set forth in the field manual and office manual of the Association of American Railroads Interchange Rules, as amended from time-to-time. Notwithstanding the foregoing BNSF shall not be liable for loss or damage caused by defects in design, materials, or workmanship of Shipper-supplied equipment or otherwise due to events of Force Majeure or improper loading or unloading performed by Shipper, its agent, contractor or consignee.

Loading:

Shipper or its agent shall be responsible for the provision of appropriate loading facilities. All Railcars in each shipment shall be tendered to BNSF (or its agent or contractor) for loaded movement within four (4) hours of actual or constructive placement for loading at origin ("Loading Free Time"). Shipper shall pay a charge per hour or fraction thereof that a train is held in excess of loading free time as published in Tariff BNSF 6041-series on the date such charge is incurred.

Unloading:

Shipper or its agent shall be responsible for the provision of appropriate unloading facilities. All Railcars in each shipment shall be tendered to BNSF (or its agent or contractor) for empty movement within six (6) hours of actual or constructive placement for unloading at destination ("Unloading Free Time"). Shipper shall pay a charge per hour or fraction thereof that a train is held in excess of loading free time as published in Tariff BNSF 6041-series on the date such charge is incurred.

Accessorial Services:

Coal unit train accessorial services and charges therefore, other than specified in this common carrier authority, shall be as set forth in BNSF Authority 6041-Series or successors thereto in effect on the date the accessorial services are provided, except that no change in destination shall be permitted.

Billing and Payment:

BNSF will bill each shipment under the terms of the Uniform Straight Bill of Lading. All Railcars for each shipment are to be billed on one (1) Bill of Lading. This Common Carrier Authority BNSF 90077, correct address and patron code must be shown on the bill of lading to insure accurate billing. Freight charges will be billed by BNSF and paid by shipper within fifteen (15) days of receipt of invoice by wire transfer. In the event that shipper does not make timely payment, or if adverse credit conditions occur, which in BNSF's judgment could affect shipper's ability to meet payment terms, BNSF may require shipper to pay cash in advance of service for all amounts for which shipper is liable under this Common Carrier Authority.

Other Provisions:

Shipments made under the provisions of this Common Carrier Authority are subject to the Uniform Freight Classification 6000-Series or its successor, BNSF 6041-series, BNSF Rules Tariff 6100-series, other applicable tariffs, statutes, federal regulatory rules and regulations, AAR rules, and other accepted practices within the railroad industry as may be amended from time-to-time.