

PUBLIC VERSION



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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

Complainants,)

v.)

BNSF RAILWAY COMPANY)

Defendant.)

216553

Docket No. 42088

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Public Record

**SUPPLEMENTAL OPENING EVIDENCE OF
WESTERN FUELS ASSOCIATION, INC. AND
BASIN ELECTRIC POWER COOPERATIVE, INC.
IN RESPONSE TO MARCH 17, 2006 COMPLIANCE ORDER**

OF COUNSEL:

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

Dated: May 15, 2006

John H. LeSeur
Christopher A. Mills
Peter A. Pfohl
Daniel M. Jaffe
1224 17th Street
Washington, D.C. 20036
(202) 347-7170

Attorneys for Complainants

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Complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. (collectively “WFA/Basin”) submit this Supplemental Opening Evidence as directed by the Board in its Decision served March 17, 2006 (“Compliance Order”).

Preface

The Board claims in its Compliance Order that it needs additional evidence from the parties because the parties have failed to provide evidence simulating the SARR’s operations using the Rail Traffic Controller (“RTC”) Model “that can matched up against the other party’s evidence.” *Id.* at 1. WFA/Basin disagree. In fact,

submission of additional evidence pursuant to the Compliance Order is unnecessary because the Board already has all of the evidence and tools it needs to determine the SARR's traffic and revenues during the SAC analysis period and to apply the RTC Model after resolving the differences between the parties' RTC Model input assumptions.

Specifically, the Board is a licensee of the RTC Model, and thus has access to the versions of the Model used by the parties, as well as subsequent releases should it choose to use an updated version. The operating input adjustments specified in the Compliance Order are either already reflected in the parties' RTC simulations that are of record, or can be made by the Board's staff given its access to the Model. The staff should also be capable of running the RTC Model with whatever peak traffic and operating-input adjustments it deems appropriate.

In addition, the Board itself can use the data in BNSF's August 25, 2005 Errata to adjust the 4Q04 and 2005 SARR traffic group volumes, and the Board can make whatever adjustments it deems appropriate to the 2006-2024 volumes and revenues because it has access to the latest (2006) AEO forecasts.¹ In short, the Compliance Order is unprecedented and unnecessary. To WFA/Basin's knowledge, the Board has never

¹ For example, the Board has not had difficulty applying updated AEO forecasts in other SAC rate cases without input from the parties when such forecasts became available after the close of the administrative record. See, e.g., Docket No. 42057, Public Service Company of Colorado d/b/a Xcel Energy v. BNSF Railway Co. ("Xcel") (STB served June 8, 2004) at 53; Docket No. 42071, Otter Tail Power Company v. BNSF Railway Co. ("Otter Tail") (STB served Jan. 27, 2006) at B-4-5.

previously requested the submission of supplemental SAC evidence in analogous circumstances.

Nonetheless, WFA/Basin have done everything the Board asked them to do in the Compliance Order, and present the results here. WFA/Basin's submission of supplemental evidence pursuant to the Compliance Order is without prejudice to their right to assert any and all legal objections to the reopening of the record in this proceeding (see the Board's Decision served February 27, 2006 in Ex Parte No. 657 (Sub-No. 1) et al., Major Issues in Rail Rate Cases at 39) and to the Compliance Order itself.

I. Introduction and Summary

WFA/Basin and Defendant BNSF Railway Company ("BNSF") have submitted extensive evidence with respect to stand-alone costs in this case. WFA/Basin's evidence modeled a coal-only stand-alone railroad ("SARR"), the Laramie River Railroad ("LRR"), which operates between the Wyoming Powder River Basin ("PRB") mines and Basin Electric's Laramie River Generating Station ("LRS"), and to an interchange with BNSF at Guernsey, WY.

Consistent with the Board's expressed preference, WFA/Basin used the RTC Model to simulate the LRR's operations during the peak week of the 20-year SAC analysis period, and to confirm the feasibility of the system configuration and operating plan developed by WFA/Basin's rail operations experts, led by Paul Reistrup. In its reply SAC evidence BNSF also used the RTC Model, but with some traffic and operating

assumptions that were different from those used by WFA/Basin. The RTC Model also ran successfully in BNSF's reply simulation, thus confirming the LRR's feasibility.

On rebuttal, WFA/Basin accepted some of BNSF's operating inputs but rejected others, and ran the RTC Model with the revised inputs (as well as some minor changes in the RTC train file). The rebuttal RTC simulation produced train transit and cycle times similar to those in WFA/Basin's opening RTC simulation. See WFA/Basin Rebuttal Narrative at III-C-59 to 60 and rebuttal electronic workpapers "WFA Supplemental Cycle Times.xls" and "LRR Supplemental Operating Statistics.xls."

The Board's Compliance Order confirms that the parties have generally agreed on the LRR's track configuration and traffic group, but notes several differences in the operating assumptions used in each party's RTC Model simulation. The Compliance Order directs the parties to submit supplemental RTC simulations using the same LRR traffic and operating assumptions.²

WFA/Basin have re-run their RTC simulation of the LRR's peak-period operations using the revised tonnages and the operating assumptions specified in the Compliance Order. The specific revisions are described below. The results, in terms of train transit/cycle times compared with those developed in BNSF's reply evidence and

² On April 6, 2006, BNSF filed a petition for reconsideration of the Compliance Order to the extent it directs the parties to use the parties' 2005 LRR volume assumptions, as reflected in BNSF's August 25, 2005 Errata. The Board denied BNSF's petition for reconsideration in a decision served April 21, 2006.

WFA/Basin's rebuttal evidence, are shown in Table 1 below. Table 1 is similar in format to Table III-C-2 on page III-C-60 of WFA/Basin's Rebuttal Narrative.

Table 1 BNSF and LRR Train Cycle Times (Hours)					
Movement	BNSF Avg.^{1/} (2004)	BNSF Peak (2004)	LRR Peak (Reply)	LRR Peak (Reb.)	LRR Peak (Supp.)
1. Guernsey to Campbell Sub mines and return	{ }	{ }	30.2	28.9 ^{3/}	28.7 ^{3/}
2. Moba Jct. to Campbell Sub mines and return	{ }	{ }	47.2	35.8 ^{4/}	42.0 ^{4a/}
3. Donkey Creek to North Antelope/Rochelle Mine and return	{ }	{ }	12.3	12.6 ^{5/}	12.4 ^{5/}
<p>^{1/} Average actual BNSF train cycle times during the one-year period from October 1, 2003 through September 30, 2004, including actual dwell time in the empty direction at the interchange point or LRS and actual dwell time at the mine. Time for the movements in Line 1 was based on a total of four observations. Time for each of the movements in Lines 2 and 3 was based on approximately 30 observation samples.</p> <p>^{2/} { }</p> <p>^{3/} Includes six hours of dwell time at Guernsey Yard in the empty direction and up to one hour in the loaded direction, and six hours of dwell time at the mines.</p> <p>^{4/} Includes 12 hours of dwell time at LRS, 0.5 hours of dwell time at Moba Jct. for empty interchange trains, and six hours of dwell time at the mines.</p> <p>^{4a/} Same as Footnote 4, except dwell time at LRS has been changed from 12 hours to 19.18 hours.</p> <p>^{5/} Includes 0.5 hours of dwell time at Donkey Creek in the empty direction and 5.5 hours of dwell time at the mine; no additional allowance for the presence of UP or residual BNSF trains at the mines.</p>					

As the above table shows, the results of WFA/Basin's supplemental RTC simulation are similar to those from their rebuttal RTC simulation. The increase in cycle time for movements from Moba Jct. to mines on the Campbell Subdivision and return is attributable to the increase in dwell time at LRS.

II. Assumption changes for Supplemental RTC Simulation

As directed by the Compliance Order, WFA/Basin have made three changes to the inputs used in their rebuttal RTC simulation. These changes include the following:

1. The train file for the peak simulation period was adjusted to reflect the revised peak-year tonnage and corresponding trains resulting from use of the traffic group tonnages and AEO forecasts specified in the Compliance Order (and to correct an error in BNSF's Reply RTC train file).
2. All 21 of the random track and signal outages reflected in BNSF's Reply (RTC Model) workpaper evidence were included, with the adjustments specified in the Compliance Order.
3. 19.18 hours were used for dwell time of each train at the LRS unloading facility, as specified in the Compliance Order.

WFA/Basin's rebuttal RTC simulation already reflects the two additional items specified in the Compliance Order (exclude UP and residual BNSF train loadings contained in BNSF's reply RTC evidence, and use WFA/Basin's rebuttal evidence dwell time for Guernsey Yard). In other words, only BNSF is required to make input changes to reflect these two items if it conducts a supplemental reply RTC simulation.

The Compliance Order also directs the parties to agree upon a single release of the RTC Model to use for their supplemental evidence. WFA/Basin and BNSF have agreed to use release RTC 2.70L19C, which was provided to licensed users of the RTC Model on March 20, 2006. The RTC Model's proprietor, Berkeley Simulation Software,

has indicated that this release of the Model is available to the Board. This release was used by WFA/Basin in conducting their supplemental RTC Model simulation.

a. **Adjustments to RTC Train File**

In determining the LRR's coal tonnages, the Compliance Order directs the parties to use the traffic group tonnages contained in BNSF's Errata filed August 25, 2005, with projected tonnages for the years 2006-2024 based on the most recent EIA AEO forecasts for Wyoming PRB low-sulfur (sub-bituminous) coal tonnage available as to the date of the order. WFA/Basin have complied with this directive by using the tonnages reflected in BNSF's August 25 Errata and the AEO "Wyoming Powder River Basin Low-Sulfur (Sub-Bituminous)" coal tonnage forecasts set forth in the February 2006 AEO at Supplemental table 110. The revised tonnages for each year during the DCF Model are shown in WFA/Basin's supplemental electronic workpaper "LRR Traffic and Revenues_WFABasin Supplemental.xls."

The revised assumptions have resulted in a modest reduction in the LRR's peak-year (2024) coal tonnage, from 219.8 million tons (rebuttal evidence) to 219.7 million tons (supplemental evidence). WFA/Basin's experts reviewed and modified the peak-year trains and the 13-day peak simulation period train list that was used for their rebuttal RTC simulation to reflect the revised peak-year tonnage, using the same procedures described at pp. III-C-26 to 28 of their Opening Narrative. There was no change in the LRR's peak traffic week, or in the 13-day RTC simulation period.

The revised LRR peak (simulation) period train list used in WFA/Basin's supplemental RTC Model simulation is shown in supplemental electronic workpaper "LRR Supplemental Operating Statistics.xls," tabs "PEAK_EMPTY_TRAINS" and "PEAK_LOADED_TRAINS." The net result of the changes made by WFA/Basin is an increase in the number of empty trains simulated from 581 (rebuttal) to 592 (supplemental), or an increase of 11 trains. The 11 additional trains represent additional "growth" trains moving to Georgia Power's Plant Scherer that were added randomly to the rebuttal RTC train file. The added Scherer trains are shown at the end of the above-referenced tabs to "LRR Supplemental Operating Statistics.xls." These trains were added because of an error that WFA/Basin discovered in BNSF's RTC train list, which was used as the basis for their rebuttal RTC simulation. The BNSF error (which does not affect the total number of Scherer trains that move in the peak year) is described in supplemental electronic workpaper "Scherer Trains (supplemental).xls."

b. Adjustments to Random Track and Signal Outages

The Compliance Order further directs the parties to include in their supplemental RTC Model simulations:

all random signal outages contained in BNSF's Reply (RTC Model) Workpaper Evidence IIIB/RTC/SUBCANONJAN2004T011-15-04 and IIIB/RTC/SUBORINJAN2004T011-15-04 indicated by color coding in red, a total of 21 signal outages, with the following adjustment:

- synchronize the time zone used in the RTC Train file with the time zone in the random outages Form B file;
- increase the slow order train speed limits from 10 mph to 20 mph.

For the reasons set forth at pp. III-C-37 to 43 of WFA/Basin’s Rebuttal Narrative, WFA/Basin’s experts disagree that all of the random signal outages shown in BNSF’s Reply Form B file should be included in the RTC Model simulation. However, they have complied with the Board’s directive by including in the supplemental RTC simulation all of the random signal outages reflected in BNSF’s Reply Form B file, with the specified adjustments. A list of these random outages, with the adjustments, is included in the RTC Form B file in supplemental electronic workpaper folder “RTC.”

Two items pertaining to the Form B file used in WFA/Basin’s supplemental RTC simulation should be briefly noted. First, the Form B file shows a total of 23 track and signal-related outages, not 21. However, three of these outages were previously included by both parties as operational (“DPR”) outages rather than signal outages (all three of these outages involved broken rails that affected train operations). Also, one of the signal outages denoted by red color coding in the BNSF Reply workpapers cited in the Compliance Order ({

}) is a duplicate of a DPR operational outage for the same incident, a broken rail near { }, WY. Both parties included the { } broken rail incident as an operational outage in their RTC simulations,³ so there is no need to

³ It is listed as DPR #11 in BNSF’s Reply Form B file; see supp. electronic workpaper “BNSF Form B file.xls.”

duplicate it as a signal outage. This reduces the Form B signal outages from 21 to 20, which is consistent with the number shown in BNSF's Reply Form B file.

Second, WFA/Basin complied with the Board's time-zone synchronization request by moving the time of the three DPR outages shown in BNSF's Reply Form B file back one hour (from Central Time to Mountain Time). WFA/Basin determined that all of the DPR and track/signal outages for the BNSF lines replicated by the LRR listed in the materials provided by BNSF in discovery (from which Form B was originally prepared) were shown in Central Time in BNSF records. The RTC simulations were conducted in Mountain Time because all of the LRR's facilities are located in the Mountain time zone. Thus, the included outages that were shown in Central Time in BNSF's records should have been converted to Mountain Time for purposes of the RTC simulation.

This problem affected only the DPR outages, because specific event times were not listed in BNSF's "trouble ticket" records pertaining to signal outages. All that was shown for each of the signal outages was {

} . WFA/Basin's RTC experts assigned specific times for these outages randomly, and BNSF did the same for the additional signal outages it added to the Form B file on Reply. Since the signal outage times were added randomly, there is no need to make an adjustment from Central Time to Mountain Time.

c. **Adjustment of Train Dwell Time at LRS**

The Board's Compliance Order directs the parties to use a total of 19.18 hours of dwell time at LRS for each LRS coal train included in the RTC simulation, which is the dwell time used in BNSF's reply RTC simulation. This is an increase of 7.18 hours from the 12.0 hours of LRS dwell time used in WFA/Basin's rebuttal RTC simulation.

For the reasons set forth at pp. III-C-44 to 51 of WFA/Basin's Rebuttal Narrative, WFA/Basin's operating experts disagree that LRR trains need to spend more than 12 hours at LRS. However, in accordance with the Board's instructions in its Compliance Order, WFA/Basin have used 19.18 hours of dwell time per train at LRS in their supplemental RTC simulation. In order to keep the LRS spur fluid with three LRS trainsets in service, the RTC Model required some LRS trains to occupy one of the LRR's interchange tracks at Moba Jct., while waiting for an empty train to clear the spur. WFA/Basin's operating experts note that the real-world BNSF does not have these tracks, and would have difficulty delivering all of the coal required at LRS on a sustained basis if the LRS dwell time were to continue at the level of 19.18 hours per train.

* * * *

WFA/Basin successfully ran the RTC Model with the revised inputs described above. No changes to the LRR track and yard configuration were required, and no manual adjustments to the train schedules were required although the Model held

four empty coal trains out of the LRR's Guernsey Yard for brief periods, when all of the yard tracks were occupied. See supplemental electronic workpaper "Guernsey Yard.pdf" for details, and why this would not necessarily occur in the real world.

The results of WFA/Basin's supplemental RTC simulation are summarized in Table 1 on page 5 above. Details are set forth in supplemental electronic workpaper "WFA Supplemental Cycle Times.xls." The electronic files containing WFA/Basin's supplemental RTC Model run and output files are set forth in supplemental electronic workpaper folder "RTC." The release of the RTC Model used for the supplemental simulation is included as electronic file "RTC2.7L19C.zip."

III. Effect on SAC Results

The changes in the RTC train list and in the LRR transit times resulting from WFA/Basin's supplemental RTC simulation resulted in some minor changes in the LRR's peak-period operating statistics, including locomotive hours which also resulted in changes in the LRR's locomotive fuel consumption, and thus in its annual operating expenses as calculated by the DCF model. The revised operating statistics and operating expenses are shown in supplemental electronic workpapers "LRR Supplemental Operating Statistics.xls" and "LRR Operating Expenses Reb.xls," respectively.

Use of the tonnages shown in BNSF's August 25, 2005 errata and the February 2006 EIA AEO forecast for Wyoming PRB low sulfur (sub-bituminous) coal tonnage to project the LRR's tonnage from 2006 through 2024 resulted in changes in the

LRR's revenues for each year in the SAC analysis period compared with those reflected in WFA/Basin's rebuttal evidence. In addition to using the 2006 EIA AEO coal tonnage forecast, WFA/Basin also used the EIA AEO 2006 rate forecast for Wyoming PRB low-sulfur (sub-bituminous) coal in revising the LRR's annual revenues.⁴ The revised LRR revenues for each year in the DCF period are shown in supplemental electronic workpaper "LRR Traffic and Revenues_WFA/Basin Supplemental.xls."

WFA/Basin have revised the DCF analysis presented in their rebuttal evidence to reflect the changes in the LRR's revenues and annual operating expenses described above. The results are shown in supplemental electronic workpaper "LRR Ram Rates_4Q2004-2024 Rebuttal (Supplemental).xls." The results for the fourth quarter of 2004, using the RAM method for allocating SAC relief, are shown in column (5) of the revised version of Table III-H-3 on page III-H-41 of WFA/Basin's Rebuttal Narrative, set forth below. The net result is that SAC during the first quarter of the 20-year DCF period decreases by approximately four cents per ton compared with SAC as shown in WFA/Basin's rebuttal evidence.

⁴ Use of the updated EIA AEO rate forecast is not expressly required by the Compliance Order, but using the updated rate forecast is consistent with using the updated tonnage forecast.

Rebuttal Table III-H-3 (Revised)					
Summary of Maximum Rate Calculations for Issue Traffic in 4Q04					
<u>Origin</u> (1)	<u>BNSF Rate With Surcharge Per Ton</u> (2)	<u>BNSF Variable Cost Per Ton</u> (3)	<u>Jurisdictional Threshold Per Ton</u> (4)	<u>Stand-Alone Cost Per Ton</u> (5)	<u>Maximum Rate Per Ton</u> (6)
Dry Fork	\$6.71	\$1.45	\$2.61	\$3.33	\$3.33
Eagle Butte	6.72	1.50	2.70	3.33	3.33
Cordero	6.48	1.31	2.36	3.	3.33
Caballo Rojo	6.53	1.31	2.36	3.33	3.33
Jacobs Ranch	6.25	1.24	2.23	3.33	3.33

WFA/Basin also recalculated the reparations they are due for overcharges incurred during 4Q04. The amount due (excluding applicable interest) is \$6,514,234. See supplemental electronic workpaper "WFA 051506 SUPPL REPARATIONS RAM 4Q04.123."

For the entire SAC analysis period (4Q04 through 3Q2024), the revised SAC rates (using RAM) that WFA/Basin request the Board to prescribe are set forth in the revised version of Table III-H-5 on page II-H-43 of WFA/Basin's Rebuttal Narrative which appears on the next page.

Table III-H-5 (Revised)	
Maximum SAC Rates	
<u>Period</u>	<u>Maximum Rate</u>
4Q04	\$3.33
2005	3.08
2006	3.12
2007	3.12
2008	3.23
2009	3.09
2010	3.18
2011	3.23
2012	3.27
2013	3.31
2014	3.38
2015	3.55
2016	3.62
2017	3.62
2018	3.65
2019	3.72
2020	3.78
2021	3.84
2022	3.92
2023	4.00
1Q-3Q2024	4.06

IV. Conclusion

As shown herein, the minor revisions to the LRR's traffic, revenues and operating expenses resulting from use of the traffic and operating assumptions reflected in the Compliance Order do not have a significant impact on the SAC results (using RAM) presented in WFA/Basin's rebuttal evidence.

Respectfully submitted,

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

By: John H. LeSeur
Christopher A. Mills
Peter A. Pfohl
Daniel M. Jaffe
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170



OF COUNSEL:

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

Dated: May 15, 2006

Their Attorneys

VERIFICATION

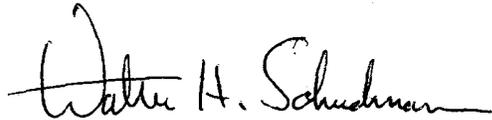
I, Paul H. Reistrup, verify under penalty of perjury that I am the same Paul H. Reistrup whose Statement of Qualifications appears in Part V of the Narrative portion of the Opening Evidence of Complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. ("WFA/Basin") filed in this proceeding on April 19, 2005; that I am responsible (jointly with WFA/Basin Witness Walter Schuchmann) for the portions of the foregoing Opening Supplemental Evidence of WFA/Basin in Response to March 17, 2006 Compliance Order related to the changes in the operating inputs for purposes of the supplemental RTC Model simulation and the results of the supplemental RTC Model simulation; that I know the contents thereof; and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.


Paul H. Reistrup

Executed on: May 9, 2006

VERIFICATION

I, Walter H. Schuchmann, verify under penalty of perjury that I am the same Walter H. Schuchmann whose Statement of Qualifications appears in Part V of the Narrative portion of the Opening Evidence of Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. ("WFA/Basin") filed in this proceeding on April 19, 2005; that I am responsible (jointly with WFA/Basin Witness Paul Reistrup) for the portions of the foregoing Opening Supplemental Evidence of WFA/Basin in Response to March 17, 2006 Compliance Order relating to the changes in operating inputs and the train file for purposes of the supplemental RTC simulation, running the RTC Model for purposes of the supplemental simulation, and the results of the supplemental RTC Model simulation; that I know the contents thereof; and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.



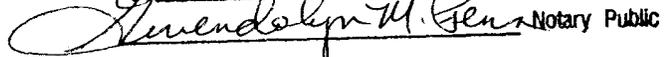
Walter H. Schuchmann

Executed on: May 12, 2006

Washington, District of Columbia

The foregoing instrument was acknowledged before me this 12th day of May, 2006

by Walter H. Schuchmann

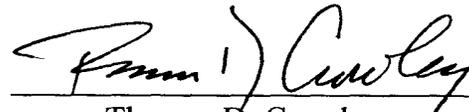
 Notary Public

My commission expires _____

GWENDOLYN M. PENN
NOTARY PUBLIC, DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES 9-14-2009

VERIFICATION

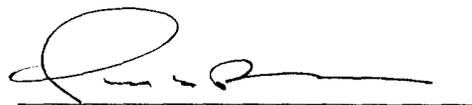
I, Thomas D. Crowley, verify under penalty of perjury that I am the same Thomas D. Crowley whose Statement of Qualifications appears in Part V of the Narrative portion of the Opening Evidence of Complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. ("WFA/Basin") filed in this proceeding on April 19, 2005; that I am responsible for the portions of the foregoing Supplemental Opening Evidence of WFA/Basin in Response to March 17, 2006 Compliance Order related to the changes to the SARR traffic group volumes and revenues, the changes in peak period trains used in the supplemental RTC Model simulation based on the revised SARR tonnages, the changes in SARR operating expenses, and the revised DCF analysis and reparations; that I know the contents thereof; and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.


Thomas D. Crowley

Executed on: May 12, 2006

VERIFICATION

I, Philip H. Burris, verify under penalty of perjury that I am the same Philip H. Burris whose Statement of Qualifications appears in Part IV of the Narrative portion of the Opening Evidence of Complainant Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. (collectively "WFA/Basin") filed in this proceeding on April 19, 2005; that I am responsible (jointly with WFA/Basin Witness Thomas D. Crowley) for the portions of the foregoing Supplemental Opening Evidence of WFA/Basin in Response to March 17, 2006 Compliance Order related to the changes in SARR operating expenses; that I know the contents thereof; and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.



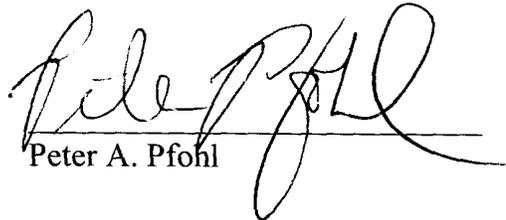
Philip H. Burris

Executed on: May 12, 2006

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2006, I caused a copy of the foregoing Supplemental Opening Evidence to be served by hand delivery on counsel for BNSF, as follows:

Samuel M. Sipe, Jr.
Anthony J. LaRocca
Linda S. Stein
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795


Peter A. Pfohl