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September 20, 2007

BY HAND DELIVERY

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0001



Re: Docket No. 42088, Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. v. BNSF Railway Company

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and ten (10) copies of Complainants' Unopposed Motion for Extension of Time. Complainants respectfully request **EXPEDITED CONSIDERATION** of this Motion.

We have enclosed an additional copy of this Motion. Please indicate receipt and filing by time-stamping this copy and returning it to our messenger.

Thank you for your attention to this matter.

Sincerely,

John H. LeSeur  
An Attorney for Complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc.

ENTERED  
Office of Proceedings

SEP 20 2007

Part of  
Public Record

Enclosures

**EXPEDITED CONSIDERATION REQUESTED**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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

Complainants, )

v. )

BNSF RAILWAY COMPANY )

Defendant. )

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Docket No. 42088

**UNOPPOSED  
MOTION FOR EXTENSION OF TIME**

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

OF COUNSEL:

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Andrew B. Kolesar III  
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Dated: September 20, 2007

Their Attorneys

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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

**Complainants** )

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**Defendant.** )

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**Docket No. 42088**



**UNOPPOSED  
MOTION FOR EXTENSION OF TIME**

Pursuant to 49 C.F.R. §§ 1104.7(b), 1115.3(e) and 1115.5(a), complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. (collectively “WFA/Basin”) respectfully request that the Board extend the due date for the parties’ filing of petitions for reconsideration, and petitions for technical corrections, from October 1, 2007 to October 22, 2007. WFA/Basin also request that the Board extend the due date for WFA/Basin’s notification (if any) to the Board concerning the presentation of additional stand-alone cost (“SAC”) evidence from October 10, 2007 to October 22, 2007. In support hereof, WFA/Basin state as follows:

On September 10, 2007, the Board served a merits decision in this proceeding (“Western Fuels Decision”). The Board also issued a merits decision in the AEP Texas case<sup>1</sup> on September 10, 2007 (“AEP Texas Decision”) (collectively, the “Decisions”). The Board found in each case “that the complainant has failed to establish that the challenged rates are unreasonably high.” Western Fuels Decision at 1; AEP Texas Decision at 1. The Board also advised that the complainants in each case that, if they notified the Board by October 10, 2007, they could “submit supplemental evidence under the stand-alone cost constraint.” Id.

Petitions seeking reconsideration of the Board’s Decisions are due on October 1, 2007. See 49 C.F.R. § 1115.3. Petitions seeking technical corrections in the Decisions are also due on October 1, 2007. See Pub. Serv. Co. of Colo. v. The Burlington N. and S.F. Ry., STB Docket No. 42057 (STB served Dec. 14, 2004) at 2. Finally, the complainants’ supplemental SAC notifications (if made) are due in both cases on October 10, 2007. See Western Fuels Decision at 20; AEP Texas Decision at 23. WFA/Basin request a short extension in these due dates as they apply in this case.

As the Board knows, SAC cases are very complex. The Board’s Western Fuels Decision is 139 pages long and its AEP Texas Decision is 112 pages long. The

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<sup>1</sup> AEP Texas North Co. v. BNSF Ry. Co., STB Docket No. 41191 (Sub-No. 1) (“AEP Texas”).

technical calculations discussed in each Decision are the subject of a complex set of electronic workpapers and the underlying pre-Decision record is enormous.

Complying with the twenty day reconsideration/technical corrections deadline is a real challenge in any SAC case, but is particularly complicated by the unique facts here. For starters, the Board issued two major rate case decisions on the same day. The same outside counsel and many of the same consulting firms are involved in both cases. Their normal intense post-decision workload is doubled within an already very compressed time period. Not only that, the same counsel and consultants must address a new set of supplemental SAC issues during the same compressed time period. Further complicating matters, one of the principal economists in both cases is out of the country this week and the shipper complainants in both cases have outstanding requests for Board workpapers.<sup>2</sup>

The short extension WFA/Basin request is necessary to provide WFA/Basin, and their counsel and consultants, additional time to review the Western Fuels Decision, to review the record, and to prepare any filings by the involved deadlines. Granting the requested extension will not prejudice the Defendant BNSF Railway Company (“BNSF”). BNSF counsel has informed WFA/Basin counsel that BNSF does

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<sup>2</sup> The Board supplied electronic workpapers to WFA/Basin and AEP Texas North Company on September 10, 2007. WFA/Basin filed a request for additional Board workpapers on September 14, 2007. A similar request was filed in AEP Texas on September 17, 2007.

not object to the Board's granting this Motion provided that WFA/Basin request, as they have, that the applicable due dates be extended for WFA/Basin and BNSF.

For the reasons set forth above, WFA/Basin request that the Board grant this Motion. WFA/Basin also request that the Board decide this Motion on an expedited basis in light of the involved time frames.

Respectfully submitted,

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

OF COUNSEL:

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1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

Dated: September 20, 2007

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Their Attorneys

## CERTIFICATE OF SERVICE

I hereby certify that this 20th day of September, 2007, I served a copy of the foregoing Unopposed Motion for Extension of Time by hand delivery on designated outside counsel for BNSF, as follows:

Samuel M. Sipe, Jr., Esq.  
Anthony J. LaRocca, Esq.  
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Andrew B. Kolesar III