

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35305

**ARKANSAS ELECTRIC COOPERATIVE CORPORATION --
PETITION FOR DECLATORY ORDER**

**Reply
Verified Statement**

Of

**Thomas D. Crowley
President
L.E. Peabody & Associates, Inc.**

On behalf of

**Western Coal Traffic League
And Concerned Captive Coal Shippers**

Date: April 30, 2010

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LIST OF EXHIBITS

<u>EXHIBIT NO.</u> (1)	<u>EXHIBIT DESCRIPTION</u> (2)
__(TDC-4) ¹	Graph of BNSF/UP Coal Revenues and Contribution – 2005 to 2008

¹ Exhibit No_(TDC-1) through Exhibit No_(TDC-3) were included with my Opening Verified Statement in this proceeding filed on March 16, 2010.

I. INTRODUCTION

My name is Thomas D. Crowley. I submitted a Verified Statement in this proceeding on March 16, 2010 on behalf of the Western Coal Traffic League and the Concerned Captive Coal Shippers (“Coal Shippers”). My qualifications are set forth in my earlier Verified Statement.

The BNSF Railway Company (“BNSF”) submitted its Opening Evidence on March 16, 2010. BNSF states that coal dust is increasing costs on the rail lines of the Orin Subdivision² in the Powder River Basin (“PRB”) and “...such extraordinary maintenance of way activities are intrusive and disrupt train operations” which “...effectively consumes capacity on the railroad.”³

I have been requested by Coal Shippers to review and analyze: 1) the feasibility of BNSF continuing to address coal dust on the Orin Subdivision in the PRB through traditional maintenance techniques; and 2) the impact of maintenance activities conducted by BNSF and Union Pacific Railroad Company (“UP”) subsequent to the two significant derailments in May 2005 on service for PRB coal traffic.

My testimony is organized below under the following topical headings:

- II. Summary and Findings
- III. Feasibility of Traditional Maintenance Techniques
- IV. BNSF and UP Service for Coal Since 2005

² The Orin Subdivision includes the rail lines between Donkey Creek, Wyoming (milepost 0) to Bridger Junction, Wyoming (milepost 127).

³ BNSF’s Counsel’s Summary of Evidence and Legal Argument, page 13.

II. SUMMARY AND FINDINGS

In its Opening Evidence, BNSF claims that it cannot continue to properly maintain the coal lines in the PRB through traditional methods. BNSF's solution to the maintenance problems it has raised is to force shippers to reduce the coal dust from the trains. I do not agree with BNSF's claims that it cannot maintain the coal lines with traditional methods or with BNSF's solution to the perceived problem.

After a review of BNSF's Opening Evidence as well as other publicly available data, I

~~conclude that BNSF and UP currently receive sufficient revenues from coal shippers to maintain~~

the rail lines in the PRB, even at the maintenance levels suggested by BNSF's witnesses in this proceeding. In addition, while BNSF has asserted that increased maintenance due to coal dust has caused trains to slow and has reduced rail capacity, several operating statistics indicate that BNSF and UP coal service has steadily improved since the 2005 derailments.

My specific observations and conclusions, as discussed in more detail in the remaining sections of this Verified Statement, are as follows:

1. Increased traffic levels, including the growth in PRB coal traffic, will normally cause increased costs related to maintenance-of-way. However, increased traffic levels also create growth in revenues which can be utilized to pay for the increased maintenance costs as well as any additional capital costs for increasing capacity on the rail lines.
2. In 2005, BNSF and UP's combined revenue for coal equaled \$5.18 billion. By 2008,

the combined coal revenues for the BNSF and UP equaled \$7.96 billion, an increase

4. BNSF and UP's contribution from the coal it transports, as defined by revenues less variable costs, increased from \$1.52 billion in 2005 to \$2.18 billion in 2008, an increase of \$0.67 billion.
5. BNSF and UP have not experienced any significant derailments on the PRB Joint Line since the derailments in 2005. Even with slow orders and delays associated with

coal service. Between 4Q06 and 4Q09, BNSF's average speeds for coal trains increased from 18.1 miles per hour ("mph") to 23.5 mph, an increase of 30 percent. For UP, the average speeds for coal trains between 4Q06 and 4Q09 increased from 20.9 mph to 26.0 mph, an increase of 24 percent.

6. The UP has also decreased the average dwell times at its major coal yard in North Platte. Between 2005 and 2009, the average dwell time at UP's North Platte East Yard decreased 8 percent, from 28.4 hours to 26.1 hours. For UP's North Platte West Yard, the average dwell time between 2005 and 2009 decreased from 33.9 hours to 28.9 hours, a decrease of 15 percent. These reductions in dwell times are another factor that allows UP to transport more goods without adding capacity.

III. FEASIBILITY OF TRADITIONAL MAINTENANCE TECHNIQUES

The maintenance issues discussed by BNSF (and UP) are not unique to the PRB. Increased traffic levels, including the growth in PRB coal traffic, will cause increased variable costs related to maintenance-of-way. The increased need for maintenance can also consume the capacity of a rail line. At this level of the discussion, I do not disagree with BNSF. However, where I disagree with BNSF is in the capability of viable, traditional maintenance-of-way techniques to maintain the coal lines and the railroads' ability to cover the increased costs.

As noted in the Verified Statement and Reply Verified Statement of Coal Shippers' witness Richard McDonald, the PRB rail lines can be properly maintained with traditional techniques. BNSF has sufficient resources to provide for the required maintenance.

From a financial perspective, increased traffic levels also create increased revenues which can be utilized to pay for the increased maintenance costs as well as any additional capital costs associated with increasing capacity on the rail lines. The BNSF's claimed difficulties with maintenance and capacity issues ignore the fact that BNSF (and UP) both receive vast revenues for shipping coal over the PRB rail lines. The revenues received by the railroads cover the variable maintenance and incremental road property investment associated with transporting the traffic as well as providing substantial contributions to each railroad's fixed costs and profits. With this contribution, it is feasible for BNSF and UP to maintain the rail lines using traditional techniques and add capacity where needed.

BNSF states that because of coal dust from railcars, it is now required to perform extraordinary measures to properly maintain the coal lines in the PRB. BNSF's Mr. Fox acknowledges that "[s]ince the 1970's, BNSF and its predecessor Burlington Northern has had

to deal with coal dust accumulations on the right of way.”⁴ The issue that makes the PRB unique is not that coal dust is accumulating but rather, the amount of coal dust. The amount of coal dust is not unexpected because as BNSF recognizes the “PRB rail lines are among the highest volume rail lines in the world.”⁵ The volume that BNSF and UP transport over the PRB rail lines necessitates higher levels of maintenance for all items, not solely the type of maintenance (e.g., undercutting ballast) that is related to coal dust. BNSF asserts that traditional maintenance-of-way techniques are not sufficient to properly maintain the PRB rail lines.

BNSF’s witness Craig Sloggett, details some of the “extraordinary maintenance efforts” that BNSF performs on the PRB lines.⁶ The efforts described in his Verified Statement include:

1. More frequent undercutting (page 7);
2. Shoulder ballast cleaning (page 8); and
3. Vacuum trucks to pick up coal dust (page 8).

In order to evaluate the funds available to BNSF and UP to pay for maintenance-of-way costs and additional capital expenditures to increase capacity, I have evaluated the contribution that BNSF and UP receive from coal. My analysis summarizes the coal revenues reported by the railroads to the STB for 2005 through 2008.⁷ I also calculated the aggregate variable costs for the coal shipped by BNSF and UP for the same time period. The average service units for western coal (net load per car, cars per train, etc.) were determined from the STB’s public use waybill sample. Variable costs for 2005 through 2008 for the BNSF and UP were calculated

⁴ V.S. of Gregory C. Fox, page 2. It is worth noting that Mr. Fox, at page 6 acknowledged that BNSF “...has never claimed that coal dust was the sole cause of the derailments...” in May 2005.

⁵ BNSF Opening Evidence, Counsel’s Summary of Evidence and Legal Argument, page 9.

⁶ V.S. of Sloggett, page 6.

⁷ While BNSF and UP originate coal from regions other than the PRB, the vast majority of the coal handled by these two railroads originates in the PRB.

using the STB's URCS unit costs.⁸ The contribution in the analysis below is calculated after the

railroads have covered the costs to perform the maintenance activities and paid for the incremental road property investment required for the high volume of coal, even if extraordinary efforts were needed due to coal dust.

Table 1 below summarizes the results of my analysis.

<u>Year</u>	<u>Aggregate Amount for Coal (million)</u>		
	<u>Revenues</u>	<u>Variable Costs</u>	<u>Contribution 1/</u>
(1)	(2)	(3)	(4)
2005	\$5,183	\$3,668	\$1,515
2006	\$6,066	\$4,094	\$1,972
2007	\$6,557	\$4,691	\$1,866
2008	\$7,964	\$5,780	\$2,184

1/ Column (2) minus Column (3).

⁸ The STB and railroads have recognized that the STB's system average Phase III costing procedure that is utilized to determine the jurisdictional threshold in maximum rate cases overstates the railroads actual movement specific variable costs. To recognize this difference, I have applied the relationship of the movement specific costs to Phase III system average costs for this contribution analysis. The relationship I use is based on the movement specific costs developed in the last two STB proceedings (TMPA and WPL) before the STB switched to system average costing. A comparison of the movement-specific variable costs for shipper-owned railcars in the STB's May 9, 2002 decision in WPL to Phase III system average costs indicates that movement-specific costs are 83.6% of system-average costs. A comparison of the movement-specific variable costs for railroad-owned railcars in the STB's March 21, 2003 decision in TMPA to Phase III system average costs indicates that movement-specific costs are 82.8% of system-average costs. In my analysis of the 2005-2008 variable costs for BNSF and UP coal traffic, I have applied the ratio of 83.6% to coal traffic moving in shipper-owned equipment and 82.8% to coal traffic moving in railroad-owned equipment.

The Table 1 results above are shown graphically in Exhibit__(TDC-4) to this Reply Verified Statement.⁹

As shown in Column (2) of Table 1 above, in 2005 BNSF and UP's combined revenue for coal equaled \$5.18 billion and has increased in each subsequent year. By 2008, the combined coal revenues for the BNSF and UP equaled \$7.96 billion, an increase of \$2.78 billion.

As shown in Column (3) of Table 1 above, in 2005 BNSF and UP's aggregate variable costs to handle the coal traffic equaled \$3.67 billion. By 2008, the BNSF and UP's combined variable costs to handle their coal traffic had increased to \$5.78 billion, an increase in variable costs of \$2.11 billion. These increased variable costs include those "extraordinary costs" that the BNSF and UP have incurred to maintain their principal coal routes, including the PRB Joint Line and the Black Hills Subdivision.

BNSF and UP's contribution from the coal it transports as shown in Column (4) of Table 1 above increased from \$1.52 billion in 2005 to \$2.18 billion in 2008, an increase of \$670 million.

⁹ Exhibit__(TDC-1) through Exhibit__(TDC-3) are included in my Opening Verified Statement in this proceeding.

IV. BNSF AND UP COAL SERVICE SINCE 2005

There is no argument that the BNSF and UP exhibited severe service problems after the two PRB derailments in May 2005. All coal trains were slowed and empty coal trains were required to wait longer in yards due in large part to extraordinary catch-up maintenance resulting from deferred maintenance prior to 2005. In this current proceeding, BNSF and UP continue this theme. Specifically, BNSF and UP portray the current coal dust issue as something that is causing service problems. Mr. Sloggett stated that in order to perform the maintenance work required by coal dust "...BNSF must slow or stop train traffic on the railroad line on or near where this work is being performed to ensure the safety of our workers and to ensure the safe passage of trains as we work on the track structure itself."¹⁰ BNSF argues that "[m]aintenance effectively consumes capacity on the railroad..."¹¹

The BNSF is correct that maintenance causes slow orders and in some instances the stoppage of trains. BNSF is also correct that maintenance outages reduce the effective capacity of a rail line segment. However, once again, BNSF attempts to misdirect the reader away from the real point of this issue. All maintenance, not just the maintenance caused by coal dust, potentially creates slow orders and in some instances the stoppage of trains. In addition, the BNSF and UP respond to capacity issues in the PRB (and elsewhere on their systems) to account for increases in volumes as well as increased maintenance activities.

BNSF and UP have not shown that the maintenance activities necessary to handle coal dust have harmed the level of their coal operations. Actually, recent experience shows the opposite. Since 2005, average train speeds have increased. BNSF and UP provided average train speeds for coal train to the STB's Rail Energy Transportation Advisory Committee

¹⁰ V.S. of Sloggett, page 9

¹¹ BNSF Opening Evidence, Counsel's Summary of Evidence and Legal Argument, page13.

("RETAC") which demonstrated an increase in speed. Between 4Q06 and 4Q09, BNSF's average train speed for coal increased from 18.1 mph to 23.5 mph, an increase of 30 percent. Over the same time period, UP's average train speed for coal increased from 20.9 mph to 26.0 mph, an increase of 24 percent.¹²

Another efficiency measure for coal trains is yard dwell time. BNSF does not provide any publicly available data for its major coal yards. However, UP does provide dwell time data for its major yards, including its primary coal yard at North Platte, Nebraska. In 2005, the average dwell time for all trains moving through these yards equaled 28.4 hours for the North Platte East Yard and 33.9 hours for the North Platte West Yard. In 2006, the average dwell times were reduced to 26.7 hours (North Platte East Yard) and 32.9 hours (North Platte West Yard). Since that time, the average dwell time has further declined resulting in the 2009 average dwell time of 26.1 hours (North Platte East Yard) and 28.9 hours (North Platte West Yard).

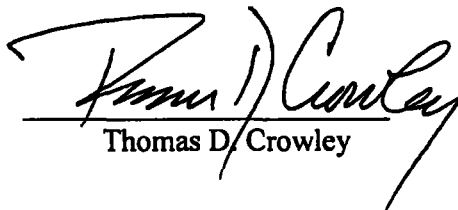
In summary, between 2005 and 2009, the average dwell time at UP's North Platte East Yard has decreased 8 percent, from 28.4 hours to 26.1 hours. For UP's North Platte West Yard, the average dwell time between 2005 and 2009 decreased from 33.9 hours to 28.9 hours, a decrease of 15 percent.

¹² BNSF did not provide data for 2005. However, UP data shows that between 4Q05 and 4Q09, UP average train speeds for coal trains increased by 28 percent.

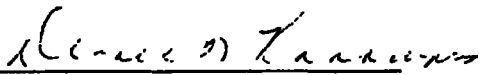
VERIFICATION

COMMONWEALTH OF VIRGINIA)
)
CITY OF ALEXANDRIA)

I, THOMAS D. CROWLEY, verify under penalty of perjury that I have read the foregoing Verified Statement of Thomas D. Crowley, 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

Sworn to and subscribed
before me this 30th day of April, 2010


Diane R. Kavounis
Notary Public for the State of Virginia

My Commission Expires: November 30, 2012
Registration Number: 7160645

Graph of BNSF/UP Coal Revenues and Contribution - 2005 to 2008

