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5 **BEFORE THE WASHINGTON**
6 **UTILITIES AND TRANSPORTATION COMMISSION**

7 WASHINGTON UTILITIES AND
8 TRANSPORTATION COMMISSION,

9 Complainant,

10 v.

11 BNSF RAILWAY COMPANY,

12 Respondent.

DOCKET TR-150284

RESPONDENT BNSF RAILWAY
COMPANY'S ACCEPTANCE OF
FINAL ORDER APPROVING
SETTLEMENT AGREEMENT

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14 RESPONDENT BNSF RAILWAY COMPANY ("BNSF"), by its attorneys of record
15 herein, respectfully responds as follows to the Commission's Final Order Approving Settlement
16 Agreement With Conditions, dated December 7, 2015 ("Order 02"):

17 1. As noted in Order 02, on August 27, 2015, the Commission Staff and BNSF filed
18 a Settlement Agreement and Narrative Supporting Settlement Agreement to resolve all issues in
19 this docket. On October 5, 2015, additional information supporting the Settlement was jointly
20 provided by the Commission Staff and BNSF in response to bench requests. A hearing on the
21 settlement was held before the Commission and the Administrative Law Judge on
22 October 19, 2015. In response to a bench request, the Washington Emergency Management
23 Division submitted information about its hazardous material incident procedures on
24 October 20, 2015. In response to a bench request, BNSF submitted information regarding the
25 Federal Railroad Administration's directive on McKenzie valves on October 21, 2015. On
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RESPONDENT BNSF RAILWAY COMPANY'S
ACCEPTANCE OF FINAL ORDER APPROVING
SETTLEMENT AGREEMENT – 1

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1 October 26, 2015, supplemental information supporting the Settlement was jointly provided by
2 BNSF and the Commission Staff, as requested.

3 2. In Order 02, dated December 7, 2015, the Commission approved the Settlement
4 with conditions, and required the parties to notify the Commission within five business days
5 whether they accept or reject the conditions.

6 3. BNSF accepts the Commission's conditions (set forth on pages 12-13 of
7 Order 02) as follows:

8 3.1. As described in paragraph 47 of Order 02, the Commission "assesses a
9 penalty of \$71,700, which is due and payable in its entirety within 10 business days from the
10 date of this Order." BNSF accepts this condition, subject to the understanding that this payment
11 would be refunded to BNSF if the Commission subsequently determines that BNSF has not met
12 the conditions applicable to BNSF as described in Order 02 and the matter proceeded to an
13 adjudication.

14 3.2. As described in paragraph 48 of Order 02, by February 1, 2016, BNSF and
15 the Commission Staff must file a stipulation with the Commission describing certain information
16 set forth in paragraph 48. BNSF accepts this condition to work in good faith with the
17 Commission Staff to prepare and submit the requested potential stipulation by February 1, 2016,
18 subject to applicable state and federal law and the parties reserving all rights and defenses
19 available in any subsequent action. BNSF's acceptance of this condition is further subject to the
20 understanding that if a mutually agreeable stipulation cannot be achieved or is not accepted by
21 the Commission, then the Settlement and any stipulation prepared pursuant to the Settlement
22 "shall be null and void, with no binding effect on the parties and with no precedential or
23 preclusive effect on the Company or Staff regarding the resumption of the litigation in
24 Docket TR-150284" or in any other proceeding, as stated in paragraph 11 of the parties'
25 Settlement Agreement.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I have this day served the foregoing document upon the persons and
3 entities listed on the Service List below via electronic mail and by depositing a copy of said
4 document in the United States mail, addressed as shown on said Service List, with first class
5 postage prepaid.

6 **For Washington Utilities and**
7 **Transportation Commission:**

8 Julian Beattie
9 Office of the Attorney General
10 Utilities and Transportation Division
11 1400 S. Evergreen Park Drive SW
12 PO Box 40128
13 Olympia, WA 98504-0128

14 Email: jbeattie@utc.wa.gov

15 I declare under penalty of perjury under the laws of the State of Washington that the
16 foregoing is true and correct.

17 DATED: December 14, 2015, at Seattle, Washington.

18 
19 _____
20 Kelly Mueller