

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

BNSF RAILWAY COMPANY,

Respondent.

DOCKET TR-160912

SETTLEMENT AGREEMENT

I. OVERVIEW

1 Staff of the Washington Utilities and Transportation Commission (Staff) and BNSF
Railway Company (BNSF), through their authorized representatives, adopt the following
settlement agreement (Agreement) to resolve all issues in Docket TR-160912, which
concerns BNSF's compliance with a statewide incident reporting regulation regarding an
incident that occurred on March 16, 2016, with respect to the release and clean-up of an
estimated one gallon of diesel fuel.

II. JURISDICTION

2 The Washington Utilities and Transportation Commission (Commission) has
jurisdiction to approve and enforce this Agreement.

III. EFFECTIVE DATE

3 This Agreement is effective on the service date of a final Commission order
approving this Agreement, or on the date that an initial order approving this Agreement
becomes a final order pursuant to WAC 480-07-825(7).

IV. TERMS OF AGREEMENT

4 Admission of liability. BNSF admits that although clean up was promptly addressed on the day of the incident, it did not make a telephone call to the EOC until seven days after one of BNSF's employees first learned of the incident. This is a violation of WAC 480-62-310, which requires railroad companies subject to the Commission's jurisdiction to report such events to the EOC within thirty minutes of learning of the event. Each day the violation continued is considered a separate and distinct violation. (RCW 81.04.380).

5 Monetary penalty. The Commission imposes a penalty of \$7,000, the maximum penalty allowed by law. In the interest of resolving this matter without further undue burden and expense, BNSF will pay the \$7,000 within 30 calendar days of the effective date of this Agreement.

V. GENERAL PROVISIONS

6 Public interest. The parties submit that this Agreement promotes the public interest, and that it is appropriate for unconditional Commission acceptance under WAC 480-07-750.

7 Advocacy. The parties agree to support the terms of this Agreement and recommend that the Commission issue an order adopting it. After the Commission accepts this Agreement, no party or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Agreement.

8 Construction. This Agreement shall not be construed against any party solely because that party was a drafter of the Agreement.

9 Other proceedings. This Agreement is entered for settlement purposes only and shall have no precedential or preclusive effect in other proceedings. In the event this Agreement does not become effective pursuant to Section III of this Agreement, this Agreement shall be

null and void, with no binding effect on the parties and with no precedential or preclusive effect on BNSF or Staff regarding the resumption of the litigation in Docket TR-160912.

10 Final agreement. This Agreement supersedes all prior oral and written agreements concerning issues addressed herein.

11 Counterparts. The parties may execute this Agreement in counterparts.

12 Authorized representatives. Each person signing this Agreement warrants that he or she has authority to bind the party that he or she represents.

DATED this 7th day of December 2016.

BNSF RAILWAY COMPANY



CHRISTOPHER EMCH, WSBA #26457

FOSTER PEPPER PLLC

Phone: (206) 447-4400

Email: chris.emch@foster.com

BROOKE KUHL, WSBA #35727

BNSF RAILWAY COMPANY

Phone: (406) 256-4293

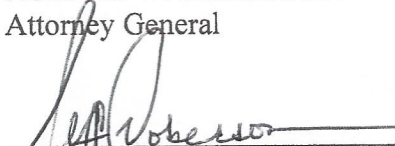
Email: brooke.kuhl@bnsf.com

Attorneys for BNSF Railway Company

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

ROBERT W. FERGUSON

Attorney General



JEFF ROBERSON, WSBA #45550

Assistant Attorney General

Attorney for Commission Staff

Phone: (360) 664-1188

Email: jroberso@utc.wa.gov