

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

BNSF RAILWAY COMPANY,

Respondent.

DOCKET TR-160912

COMPLAINT

1 The Washington Utilities and Transportation Commission (Commission), on its own  
motion, and through its Staff, alleges as follows:

**I. JURISDICTION**

2 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040,  
RCW 80.01.060, RCW 81.01.010, RCW 81.04.010, RCW 81.04.110,  
RCW 81.04.380, and WAC 480-62.

**II. PARTIES**

3 The Commission is an agency of the state of Washington.

4 BNSF Railway Company (BNSF) is a “public service company” within the meaning  
of RCW 81.04.380.

5 BNSF is a “railroad company” within the meaning of WAC 480-62-310.

**III. BACKGROUND**

6 The following allegations are based on the Staff Investigation Report filed in this  
docket.

7 WAC 480-62-310 requires railroad companies to report certain events, including  
accidents involving the release of hazardous materials. To comply with WAC 480-62-

310, a railroad company must, within 30 minutes of learning of an event's occurrence, report it to the Washington State Emergency Operations Center (EOC). The report required by WAC 480-62-310 allows the EOC to identify the critical response and remediation resources necessary to respond to the event. Violations of WAC 480-62-310 are continuing in nature: each day that the railroad company fails to report the incident constitutes a new violation.

- 8 On or about March 16, 2016, Commission Motive Power and Equipment Inspector Matt Arnold noticed a BNSF tank car leaking fluid from a manway cover while inspecting freight cars in the BNSF Elliott Yard in Ferndale, Washington. Mr. Arnold observed the fluid, which the hazardous materials placard on the car identified as diesel fuel, puddling on the ground. Mr. Arnold contacted the relevant BNSF trainmaster at 4:42 p.m. that same day and informed him of the diesel spill.
- 9 On March 21, 2016, Mr. Arnold returned to the Commission's offices and notified Transportation Planning Specialist Betty Young of the Elliott Yard diesel fuel release. Ms. Young reviewed the Commission's incident notification records from the EOC and discovered no report of the diesel fuel spill observed by Mr. Arnold.
- 10 On March 22, 2016, Ms. Young contacted the EOC, which confirmed that BNSF had not reported any release of hazardous materials in the Elliott Yard occurring on March 16 or March 17, 2016.
- 11 On March 23, 2016, Ms. Young emailed Justin Piper, BNSF's Director of Hazardous Materials and Commission staff's primary contact for hazardous materials issues, and asked whether BNSF had reported the spill. Mr. Piper replied that he would look into the matter and report back. Later that same day, BNSF reported the Elliott Yard spill to EOC.
- 12 On March 28, 2016, Mr. Piper emailed Ms. Young and acknowledged that BNSF had not timely reported the spill.

#### IV. CAUSE OF ACTION

##### **(Failure to report the March 16, 2016, release of hazardous material)**

- 13 On or about March 16, 2016, at approximately 4:42 p.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in the BNSF yard in Ferndale, Washington.
- 14 BNSF reported the release of the hazardous material to the EOC on March 23, 2016, at 1:13 p.m.

15 BNSF committed seven violations of WAC 480-62-310.

**V. REQUEST FOR RELIEF**

16 Staff requests that the Commission impose a penalty of up to \$1,000 for each of the seven violations of WAC 480-62-310 alleged above.

17 Staff further requests that the Commission order such other or further relief as is appropriate under the circumstances.

**VI. PROBABLE CAUSE**

18 Based on a review of Staff's investigation report and all supporting documents, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

DATED at Olympia, Washington, and effective August 15, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA  
Administrative Law Judge

**NOTICE**

PLEASE NOTE: Hearing facilities are accessible to interested people with disabilities. Smoking is prohibited. If limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION.)

Docket: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired: (Yes)\_\_\_\_\_ (No)\_\_\_\_\_

Do you need a certified sign language interpreter?

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: (\_\_\_\_)\_\_\_\_\_