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VIA U.S MAIL, FACSIMILE & ELECTRONIC MAIL

Carole J. Washburn  
Washington Utilities & Transportation Commission  
1300 E. Evergreen Park Drive S.W./P.O. Box 47250  
Olympia, WA 98504-7250

Re: Comments of BNSF Railway Company and Union Pacific Railroad Company on WUTC's  
Procedural Rules; Docket No. TR-050802

Dear Ms. Washburn:

BNSF Railway Company (BNSF) and Union Pacific Railroad Company (UP) appreciate this opportunity to make the following general comment on the procedural rules rulemaking.

We understand that the procedural rules must be written in a way that works best for the majority of the adjudicative cases heard by the WUTC, but rules necessary for complex rate cases may not be appropriate in other proceedings. For example, twelve copies of all pleadings may not always be needed by the WUTC. Currently, WAC 480-07-110 provides an opportunity for relief in those situations. It has been our understanding that, pursuant to WAC 480-07-110, the administrative law judge assigned to a case has the authority on behalf of the Commission to modify rule requirements in a given proceeding. We ask that this flexibility be retained.

Dennis Moss's memorandum dated June 30, 2005 includes a proposed revision to WAC 480-07-110 that would greatly complicate such discretionary modifications. As outlined in the memorandum, a request for exemption or modification would need to be heard by the full Commission at a regularly scheduled open meeting or at a formal hearing. This level of formality would be unwarranted in many cases and should not be required.

We request either that WAC 480-07-110 be left unchanged, or that authority be explicitly granted to administrative law judges, as well as with the commissioners, to grant modifications or exemptions in specific cases.

Very truly yours,

MONTGOMERY SCARP MACDOUGALL, PLLC

KILMER, VOORHEES & LAURICK, P.C.

/s/Tom Montgomery  
Attorney for BNSF Railway Company

/s/ Carolyn Larson  
Attorney for Union Pacific Railroad Company