

[Service Date March 27, 2013]

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RE: *Docket TR-121921 – Penalty Assessment – Allowing Time for Settlement
Discussions*

Counsel:

On February 25, 2013, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$105,000 against BNSF Railway Company. BNSF Railway Company (BNSF or Company) filed its response on March 14, 2013. Commission Staff (Staff) filed its reply on March 22, 2013.

In its response, BNSF asked for a hearing before an administrative law judge but also requested a settlement conference well in advance of the hearing. Commission Staff concurs with BNSF that settlement discussions are appropriate in this matter prior to formally initiating a brief adjudicative proceeding.

The Commission finds that proceeding as the Company and Staff propose would be the most productive means of resolving the issues raised in this docket. The Commission, therefore, will hold in abeyance enforcement of the Penalty Assessment and BNSF's request for a hearing pending settlement negotiations between Staff and the Company. If they are unable to fully resolve the disputed issues after a reasonable interval, the

Commission will then grant BNSF's request for a hearing and issue a Notice of Brief Adjudicative Proceeding.

At this time, the Commission believes it is appropriate to conduct an informal telephonic scheduling conference to determine the amount of time required for settlement negotiations and, as necessary, to set a tentative date for initiating the brief adjudicative process.

Please call in to the Commission's conference bridge line **(360-664-3846)** on Tuesday, **April 9, 2013, at 2:00 p.m.** Administrative Law Judge Adam E. Torem will facilitate the discussion and assist the parties in determining an appropriate schedule.

Please advise if you have any questions or concerns,

GREGORY J. KOPTA
Director, Administrative Law Division

cc: BNSF Railway Company
David Pratt, Assistant Director – Transportation Safety
Kathy Hunter, Deputy Assistant Director – Transportation Safety