



Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

Utilities and Transportation Division

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May 30, 2013

Steven V. King, Acting Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *In the Matter of the Penalty Assessment against BNSF Railway Co.*
Docket TR-121921

Dear Mr. King:

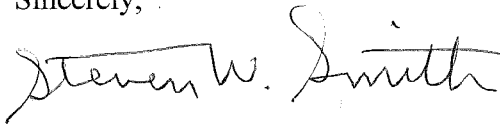
The UTC Staff (Staff) and BNSF Railway Company (BNSF or the Company) have reached a settlement of the penalty assessment in the above referenced matter. The terms of the settlement are contained in the enclosed Settlement Agreement, which the parties submit to the Commission for approval.

By way of background, on February 25, 2013, the Commission issued a penalty assessment against BNSF in the amount of \$105,000. BNSF responded by requesting mitigation of the penalties and requested a hearing to contest the penalty if mitigation was denied. The parties then entered settlement discussions resulting in the enclosed agreement. Under the Settlement Agreement, \$55,000 of the penalty is due immediately and the remaining \$50,000 is suspended for one year on condition that BNSF: (1) respond within 30 days to any notice from the Commission regarding routine grade crossing defects and within seven days for serious defects; and (2) submit photograph(s) to the Commission showing grade crossing defect repairs upon their completion. These conditions apply to Whatcom, Skagit, and Snohomish counties, the regions where the incidents that gave rise to the penalties arose. The terms of the settlement are set forth in complete detail in the attached agreement. If the Commission approves this settlement, the Company withdraws its request for a hearing.

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If the Commission requires further explanation of the settlement, the parties are prepared to do so.

Sincerely,

A handwritten signature in cursive script that reads "Steven W. Smith". The signature is written in black ink and is positioned above the typed name.

STEVEN W. SMITH
Assistant Attorney General

SWS/emd

enc.

cc: Montgomery Scarp, PLLC