



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
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September 17, 2015

**NOTICE OF BENCH REQUEST
(Due by October 5, 2015)**

**NOTICE OF HEARING ON SETTLEMENT PROPOSAL
(Set for October 19, 2015, at 1:30 p.m.)**

RE: *Washington Utilities and Transportation Commission v. BNSF Railway Company*,
Docket TR-150284

TO ALL PARTIES:

On March 19, 2015, the Washington Utilities and Transportation Commission (Commission) regulatory staff (Staff) filed a complaint against BNSF Railway Company (BNSF) alleging that BNSF failed to report 14 hazardous material releases in the manner required by WAC 480-62-310. The Commission convened a prehearing conference in this docket on May 18, 2015, and adopted a procedural schedule for this proceeding.

On August 27, 2015, BNSF and Staff, the only parties to the proceeding, filed a Settlement Agreement that would resolve all issues in this docket. The Commission issued a notice on September 1, 2015, suspending the procedural schedule.

The Commission will convene a hearing for purposes of examining the terms and conditions of the settlement and determining whether Commission approval of the settlement agreement is consistent with the public interest. The Commission requires additional information to make that determination. Accordingly, the Commission seeks responses from the parties, collectively or individually, to the following bench requests by October 5, 2015:

Bench Request No. 1. For each of the incidents in the 14 causes of action alleged in the formal complaint and described in Staff's Investigation Report, please provide the following information:

- a. The identity and amount of hazardous material that was alleged to be spilled or leaked;
- b. The date and time BNSF discovered the alleged spill or leak;
- c. The date and time BNSF reported the alleged spill or leak to the Washington State Emergency Operations Center (EOC) and documentation of that report; if BNSF did not report the alleged spill or leak, please explain why not;
- d. Whether the incident is included in the 239 possible violations of WAC 480-62-310 referenced in paragraph 6 of the Narrative Supporting Settlement Agreement, and if so, the number of possible violations attributable to the incident; if the incident is not included in the 239 possible violations, please explain why not.

Bench Request No. 2. Paragraph 6 of the Settlement Agreement provides, “At a mutually convenient time and date to be established by separate agreement of the parties, Staff will meet with Company representatives to discuss, among other potential topics, best practices for compliance with WAC 480-62-310.” Please provide the following information with respect to this provision:

- a. Do the parties contemplate a separate written agreement that will be filed in this docket establishing the terms and conditions for this meeting? If so, when do the parties anticipate making that filing? If not, how and when will the parties establish those terms and conditions?
- b. Will the meeting result in a binding agreement establishing how BNSF will comply with WAC 480-62-310? If not, what is the intended purpose of the meeting?
- c. What other potential topics do the parties intend to discuss at the meeting?

THE COMMISSION GIVES NOTICE That response to the bench requests are due by 5:00 p.m. on Monday, October 5, 2015.

THE COMMISSION GIVES FURTHER NOTICE That a hearing on the parties’ proposed settlement will be held on Monday, October 19, 2015, beginning at 1:30 p.m., in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.

GREGORY J. KOPTA
Administrative Law Judge