



**OFFICE OF ADMINISTRATIVE HEARINGS**

STATE OF NORTH DAKOTA  
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DIRECTOR

February 25, 2010

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**RECEIVED**

FEB 26 2010

James D. Christianson  
1009 East Highland Acres Road  
Bismarck, ND 58501

**PUBLIC SERVICE COMMISSION**

Re: BNSF Railway Company  
PSC Case No. RR-10-26 (Fraine Barracks Crossing)  
Petition to Intervene  
OAH File No. 20100036

Dear Mr. Christianson:

The Public Service Commission has designated me to rule on your petition to intervene in the March 1, 2010, public hearing of this matter. This is my **letter ruling** on your petition.

Your petition, in the form of a letter, was filed with the Public Service Commission ("Commission") on February 22, 2010. The Commission's rules governing intervention provide that "[a] petition to intervene in any proceeding must be filed at least ten days prior to the hearing, but not after except for good cause shown." N.D. Admin. Code § 69-02-02-05(2). The date filed is less than ten days prior to the hearing, which is scheduled for March 1, 2010. Therefore, your request is untimely. You do not state any reason in your letter why you failed to file within the required time frame. Accordingly, you have not shown good cause for failure to timely file your petition.

Since your petition was not timely filed, the question of whether your petition meets other requirements for intervention under N.D. Admin. Code § 69-02-02-05 will not be considered.

You will have an opportunity to present information to the Commission, express whatever concerns you may have, and inform the Commissioners how you would like to see them decide this matter. You may also raise questions you would like to see answered. Counsel for the Commission will be present and will have the opportunity to question witnesses. She may ask questions which are raised. The Commissioners can also question the witnesses and may consider and address any questions raised. Also, the requesting party, BNSF, may address questions and concerns in rebuttal. As you can see, you will have sufficient opportunity to present your case without being an intervenor.

**RULING**

Based on the foregoing, James D. Christianson's petition to intervene in the public hearing in the case of BNSF Railway Company (Case No. RR-10-26) is **DENIED**.

Dated at Bismarck, North Dakota this 25 day of February 2010.

State of North Dakota  
Public Service Commission



Bonny M. Fetch  
Administrative Law Judge  
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Cc: Stephen W. Plambeck, counsel for BNSF Railway Company  
Annette Bendish, counsel for Public Service Commission  
Illona Jeffcoat-Sacco, General Counsel