



OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA

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February 25, 2010

RECEIVED

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PUBLIC SERVICE COMMISSION

Ronald Huff and Mark Halverson
1727 North Grandview Lane #321
Bismarck, ND 58503

Re: BNSF Railway Company
PSC Case No. RR-10-26 (Fraire Barracks Crossing)
PSC Case No. RR-10-27 (Manvel Crossings)
Petition to Intervene
OAH File No. 20100035

Dear Mr. Huff and Mr. Halverson:

The Public Service Commission has designated me to rule on your petition to intervene in the March 1, 2010, public hearing of these two matters. 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 16, 2010. In your letter, you state "In our opinion, we have a legal standing because the BNSF has not taken down the whistle post signs at all the private railroad crossings, as required by North Dakota state law. We as train crews must sound the train horn at all crossings where there are signs posted, doing this could put us in violation of ND state law."

The Commission's rules governing intervention provide, in relevant part, that "[a]n intervention may be granted if the petitioner has a statutory right to be a party to the proceeding; or the petitioner has a legal interest which may be substantially affected by the proceeding" N.D. Admin. Code § 69-02-02-05. Train crews are employees of the railroad. The railroad is the party which filed the application requesting review of the crossings in these two matters and as such, has a statutory right to be a party to the proceeding. You have not identified a statutory right to be a party to the proceeding, nor does being an employee of the railroad constitute a legal interest which may be substantially affected by the proceeding in these two matters. Therefore, you have not shown that you have legal standing to be granted intervention.

Even though you do not have a legal interest to protect in this proceeding, your rights are protected as you may appear at the hearing in your own right. N.D. Admin. Code §§ 69-02-01-05 and 69-02-01-06(1). 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 the matters. You may also raise questions you would like to see answered.

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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, Ronald Huff's and Mark Halverson's petition to intervene in the public hearing in BNSF Railway Company (Case No. RR-10-26 and Case No. RR-10-27) 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