



ARC

*Alliance for
Rail Competition*

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STB ruling February 20, 2008

As you probably know the Surface Transportation Board issued a decision this past week granting an estimated \$345 million dollars in reparations and rate reductions from the BNSF Railway to Western Fuels Association and Basin Electric Power Cooperative. The overall rate was reduced from approximately 600% rev/var to 240% rev/var. The shippers challenged the rate to haul 8 million tons of coal each year from mines in Wyoming to a plant in Moba Junction, Wyoming. The plant is captive to the BNSF. For details see <http://www.stb.dot.gov>. under "E-LIBRARY," then under "Decisions & Notices," beneath the date "2/18/09."

Duane Richards who is CEO of Western Fuels Association is also a Vice-Chairman of ARC's Executive Committee. We congratulate Duane and the others involved for their victory and even more for their persistence in pursuing this case. The case took over 4 years to resolve. In addition, the STB changed the rules for "stand alone cost" during this time frame. This forced the shippers to spend a great deal of time and money to modify the case so it could proceed forward. Naturally the cost for this case exceeded the 5 to 6 million dollars that a stand-alone case is normally expected to cost.

What is interesting to note is the initial thoughts that some in the financial community have concerning this decision. In summary, they believe that there are no material impacts on the overall pricing story for the railroad industry. They believe that that the 5 to 6 million-dollar cost to file a rate case limits the exposure to other cases being filed. And, they are correct. The average shipper neither has the means or the time to put forward a full blown stand-alone rate case. As we stated in previous newsletters, even the simplified small rate case rules that Dupont won its challenge are cumbersome and really limits the rewards to the shipper.

This is why we need to push for legislation that levels the playing field with the railroads without relying on a regulatory body to make a decision. We are committed to pushing for Final Offer Arbitration.

Mike Snovitch
Executive Director
Alliance for Rail Competition