

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF BG&CM RAILROAD'S)
OBJECTION TO ITS ANNUAL) CASE NO. BGR-R-07-01
REGULATORY FEE FOR CALENDAR)
YEAR 2007.) ORDER NO. 30332
)**

On May 7, 2007, BG&CM Railroad filed a timely objection to its annual regulatory fee for calendar year 2007. BG&CM operates portions of the previous Camas Prairie Railroad's Grangeville branch line (Cottonwood to Spalding). In its objection, the Railroad stated that it had over-reported its gross intrastate operating revenue for calendar year 2006. In calculating its gross intrastate operating revenue, the Railroad had inadvertently included intrastate operating revenues from another railroad. Consequently, BG&CM asserts that it had over-reported its gross intrastate revenue by more than \$427,422. Objection at 1.

On May 23, 2007, the Commission issued a Notice of Objection and scheduled a telephonic hearing for May 29, 2007. Order No. 30316. The Notice also directed that the Staff verify the amount of BG&CM's reported intrastate operating revenue and provide the information at the hearing.

BACKGROUND

A. The Commission's Regulatory Fees

The Commission's operating funds are derived by assessing regulatory fees upon utilities and railroads subject to the Commission's jurisdiction. Each year, the Legislature authorizes the Commission to expense funds necessary to regulate and supervise utilities and railroads. *Idaho Code* §§ 61-1001 and 62-611. *Idaho Code* § 61-1003 provides that on or before April 1 of each year, each railroad corporation shall report its gross operating revenues from its intrastate railroad business in Idaho for the preceding calendar year. When all the railroads have reported their total intrastate revenues, this cumulative figure is divided into the amount the Commission expends regulating railroads. For example, for fiscal year 2008 (July 1, 2007 through June 30, 2008), the expenditure amount attributed to regulating railroads is \$142,000. Order No. 30304. The railroads reported gross intrastate operating revenues totaling \$14,071,803 for calendar year 2006. Thus, the proportionate share of each railroad's regulatory

fee is calculated by multiplying .7623 percent (.007623) times its gross operating revenues. *Id.* The maximum assessment fee for each railroad shall not exceed one percent (1.00%) of its gross revenues, and the minimum fee shall be no less than \$50. *Idaho Code* § 61-1004.

Once the railroad assessment is determined, the Commission notifies each railroad of its regulatory fee no later than May 1 of each year. The regulatory fee may be paid to the Commission in equal semi-annual installments due May 15 and November 15. *Idaho Code* § 61-1005. Any railroad may object to its regulatory fee “on or before the time specified for payment of the first installment of the assessment made against it.” *Idaho Code* § 61-1007.

B. The Railroad’s Objection

As mentioned above, BG&CM asserts that it over-reported its gross operating revenue. In its certification dated March 5, 2007, the Railroad initially reported that its Idaho gross intrastate revenue for calendar year 2006 was \$667,422. Based upon the initially reported amount, the Commission calculated BG&CM’s 2007 regulatory fee as \$5,087.76. In its May 7 objection, the Railroad maintains that its actual intrastate gross operating revenue for calendar year 2006 was \$240,000. The Railroad alleges that it inadvertently reported operating revenues from two railroads. Consequently, the cumulative total of intrastate operating revenues for all the railroads was allegedly over-reported by 3.0%.

THE HEARING

David Hattaway, Deputy Administrator, testified for the Commission Staff. One of his responsibilities is to prepare the annual fee assessments for railroads. He testified that BG&CM had originally reported gross intrastate revenues of \$667,422 but revised its report when the Railroad filed its timely objection. He reviewed the source documents provided by BG&CM’s home office in Richmond, Missouri. Based on his review of the source documents, he calculated that BG&CM’s gross intrastate operating revenues for 2006 were \$238,850.25. The Railroad did not make an appearance at the telephonic hearing.

FINDINGS

Based upon our review of the Railroad’s objection and testimony of the Staff, we find that BG&CM Railroad filed a timely objection to its 2007 assessment. We further find that BG&CM Railroad over-reported its gross intrastate operating revenue for calendar year 2006. Based upon Staff’s review of the source documents, we find the Railroad’s correct intrastate gross operating revenue for calendar year 2006 to be \$238,850.25. Applying the assessment

percentage of .007623 to the corrected revenue of \$238,850.25 produces a corrected 2007 regulatory fee of \$1,820.76.

ORDER

IT IS HEREBY ORDERED that BG&CM Railroad's objection to its 2007 regulatory fee is granted as modified above.

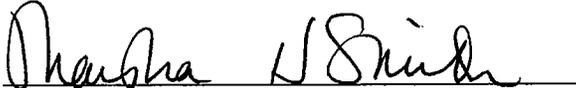
IT IS FURTHER ORDERED that BG&CM's 2007 regulatory fee shall be \$1,820.76. This fee may be paid to the Commission no later than 28 days from the service date of this Order. In the alternative, the Railroad may pay its regulatory fee in two equal installments: the first installment due 28 days from the service date of this Order; and the second installment due no later than November 15, 2007.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 31st day of May 2007.



PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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