

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF WASHINGTON &)
IDAHO RAILWAY SPECIAL REGULATORY) CASE NO. WAI-R-15-01
FEE PURSUANT TO IDAHO CODE §§ 61-)
1001 THROUGH 61-1005) ORDER NO. 33349
_____)**

On June 29, 2015, the Commission issued an Order directing Washington and Idaho Railway (“Railroad”) to appear and show cause why it has failed to file its statutorily-required annual reports and pay its annual regulatory fees for several years. See Order No. 33330. The Commission’s Order also directed the Railroad to show cause why the Commission should not direct its attorney to seek redress in state district court. The Commission scheduled the show cause hearing on July 21, 2015. *Id.* at 5.

On the day before the show cause hearing (July 20, 2015), the Railroad filed its 2013 and 2015 annual reports showing its gross intrastate revenues in Idaho. With those annual revenue reports, Commission Staff was able to calculate the outstanding regulatory fees for 2012, 2013, 2014, and 2015. Staff was also able to calculate the accrued interest in accordance with *Idaho Code* § 61-1005. Staff calculated that the Railroad was currently in arrears in the amount of \$3,619.58, including interest. The Railroad failed to appear at the scheduled show cause hearing.

On July 24, 2015, Commission Staff and the Railroad entered into a Consent Agreement to resolve the outstanding issues in this case. At the same time, the Railroad issued a check to the Commission for full payment of all outstanding regulatory fees plus interest. As set out in the Consent Agreement, the Railroad further agrees to submit to a financial audit by the Commission Staff no later than December 31, 2015; to file its 2016 annual revenue report on or before April 1, 2016; to pay its full 2016 annual regulatory fee on or before May 15, 2016; and to pay a civil penalty of \$2,000 by October 1, 2015, with an additional \$10,000 civil penalty withheld pursuant to *Idaho Code* § 61-706.

DISCUSSION AND FINDINGS

Based upon our review of the Consent Agreement and the facts of this case, the Commission finds that the Consent Agreement and its terms are fair, just and reasonable and in the public interest. Consistent with our Rule 58, “consent agreements are intended to require

compliance with existing law.” IDAPA 31.01.01.058. We further find that it is reasonable given the facts of this case for the Railroad to pay a civil penalty of \$2,000, pursuant to *Idaho Code* §§ 61-706 and 61-712B.¹ In summary, we find it appropriate to adopt the proposed Consent Agreement between Washington and Idaho Railway and Commission Staff as a reasonable resolution of this matter.

ORDER

IT IS HEREBY ORDERED that Washington and Idaho Railway comply with the provisions of the Consent Agreement.

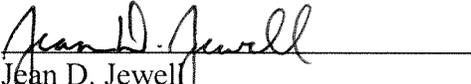
THIS IS A FINAL ORDER adopting a Consent Agreement.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30th day of July 2015.


PAUL KJELLANDER, PRESIDENT


KRISTINE RAPER, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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¹ *Idaho Code* § 61-712 requires that the recovery of civil penalties under Chapter 7 of the Idaho Public Utilities Laws be paid into the State’s General Fund.