

**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. ) NOTICE OF OBJECTION AND  
 ) NOTICE OF TELEPHONIC  
 ) HEARING  
 )  
 ) ORDER NO. 30316**

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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. Pursuant to *Idaho Code* § 61-1007, the Commission initiates this case to examine the Railroad's Objection.

**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 by 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.*

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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 reported that its Idaho gross intrastate revenue for the calendar year 2006 was \$667,422. In its 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%.

Based upon the over-reported amount, BG&CM’s 2007 regulatory fee is \$5,087.76. Keeping the assessment at the established level (.007623) but multiplying by the “corrected” amount, results in a fee of \$1,892.52, or approximately \$3,250 less.

### **DISCUSSION**

The Commission’s fee assessment statutes contemplate that a railroad’s objection to its regulatory fee “shall proceed” on an expedited basis. *Idaho Code* § 61-1007 requires that the Commission hold a hearing regarding the fee objection within 20 days of the date the objection is filed with the Commission. Moreover, the Commission shall make and issue its findings and Order within 20 days after the hearing. Consequently, it is the Commission’s intent to expeditiously consider the Railroad’s objection.

In this case, BG&CM alleges that it misreported its intrastate operating revenues. When a similar objection was made in 2002, the Commission directed that the Staff verify the correct amount of reported intrastate operating revenue. Consequently, we direct the Commission Staff to expeditiously verify the reported revenues of BG&CM.

## NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that the Commission shall convene a telephonic hearing on **TUESDAY, MAY 29, 2007 AT 10:00 A.M. MOUNTAIN TIME (9:00 A.M. PACIFIC TIME) IN THE COMMISSION'S HEARING ROOM, 472 W. WASHINGTON STREET, BOISE, IDAHO (208) 334-0300.** Persons wishing to listen to the proceeding may dial **1-888-285-4585** and enter **Participant Code 135601**. (This is a toll-free call.) The purpose of the hearing will be to present evidence regarding the appropriate amount of gross intrastate operating revenue for BG&CM Railroad in calendar year 2006. Given the expedited nature of this proceeding, the Commission finds there is good cause to schedule the telephonic hearing on less than 14 days' notice. BG&CM may participate at the hearing by telephone. The parties may also present "live" testimony.

YOU ARE FURTHER NOTIFIED that all hearings in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0338 (Telephone)  
(208) 334-3762 (FAX)  
E-Mail: [secretary@puc.idaho.gov](mailto:secretary@puc.idaho.gov)

YOU ARE FURTHER NOTIFIED that all prepared exhibits must conform to requirements of Rule 267 of the Commission's Rules of Procedure, IDAPA 31.01.01.267.

YOU ARE FURTHER NOTIFIED that all hearings will be conducted pursuant to the Rules of Procedure adopted by the Idaho Public Utilities Commission. IDAPA 31.01.01.000 *et seq.*

YOU ARE FURTHER NOTIFIED that the Commission has jurisdiction over this matter under Title 61 of the Idaho Code and specifically *Idaho Code* § 61-1007. The Commission may enter any final Order consistent with its authority under Title 61.

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**ORDER**

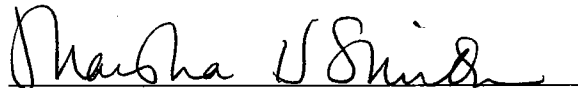
IT IS HEREBY ORDERED that the Commission initiates this proceeding based upon BG&CM Railroad's objection to its calendar year 2007 regulatory assessment.

IT IS FURTHER ORDERED that the Staff verify the assertions made by BG&CM for purposes of determining the Railroad's gross intrastate operating revenue for calendar year 2006.

IT IS FURTHER ORDERED that the Staff and the Railroad shall appear at the telephonic hearing as set out above.

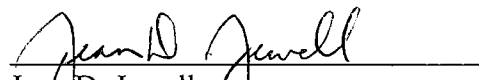
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22<sup>nd</sup> day of May 2007.

  
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PAUL KJELLANDER, PRESIDENT

  
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MARSHA H. SMITH, COMMISSIONER

  
\_\_\_\_\_  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
Jean D. Jewell  
Commission Secretary

bls/O:BGR-R-07-01\_dh