### BEFORE THE IDAHO PUBLIC UTILITIES COMMISSEONIVED

2024 MAR 15 PM 2: 28

IN THE MATTER BG & CM RAILROAD, INC.'S FAILURE TO PAY SPECIAL REGULATORY FEE PURSUANT TO <i>IDAHO CODE</i> §§ 61-1001 THROUGH 61-1005		)	CASE NO. BGR-R-24-01 PUBLIC UTILITIES COMMISSION AFFIDAVIT OF NANCY ASHCRAFT
STATE OF IDAHO	)		
	SS.		
County of Ada	)		

- I, Nancy Ashcraft, being first duly sworn under oath, depose and state as follows:
- 1. My name is Nancy Ashcraft. I am over 21 years of age, of sound mind, and I have personal knowledge of the facts stated herein.
- 2. The information contained herein is true and correct to the best of my knowledge and belief.
- 3. I am a Financial Specialist, Senior at the Idaho Public Utilities Commission ("Commission"). I started working in this position in 2016. I am responsible for the billing and collection of annual fees assessed on public utilities and railroads as described in *Idaho Code* §§ 61-1001 through 61-1005.
- 4. In my position I am aware that BG & CM Railroad, Inc. ("Company") has a history of being slow or unresponsive in the payment of its annual assessment fees ("Assessment"). For example, the Company has not paid its 2023 Assessment despite requests by Staff for it to do so.
- 5. In May and November 2023, the Company failed or refused to pay its annual regulatory fees.
- 6. As of December of 2023, the Company was assessed \$357.71 in interest on the outstanding balance of its Assessment of \$14,775.57 at the rate of six percent (6%).
- 7. Staff sent the Company a Demand Letter via certified mail outlining the amounts owed by the Company. The Demand Letter also provided the Company with notice of the potential for the Commission to take legal action against it—including the Commission ordering the Company to Show Cause for its failures to comply with Commission

mandates. This Demand Letter was delivered to the Company on December 13, 2023. A true and correct copy of the Demand Letter is attached hereto and incorporated by reference herein as **Exhibit A**.

8. Despite such action by Staff, the Company has failed to pay its Assessment, and the applicable interest owed to the Commission remains unpaid and past due.

Dated this 15 day of March 2024.

Jancy Ashcraft

Financial Specialist, Senior

Idaho Public Utilities Commission

SUBSCRIBED AND SWORN to before me this 15th day of March 2024.



Notary Public for Idaho

Residing at: Ada County, Idaho

Commission expires: March 15, 2025

### **Idaho Public Utilities Commission**

P.O. Box 83720, Boise, ID 83720-0074

Brad Little, Governor

Eric Anderson, President John R. Hammond, Jr., Commissioner Edward Lodge, Commissioner

#### **VIA CERTIFIED MAIL**

December 5, 2023

Michael Williams, President BG & CM Railroad 10100 N Ambassador Dr., Ste 105 Kansas City, MO 64153

Re: Unpaid Annual Assessment Fees - Notice of Possible Order to Show Cause and Legal Action

Dear Mr. Williams,

This correspondence is sent to you regarding BG & CM Railroad's (the "Company") failure to pay its 2023 annual assessment ("Assessment"), in the amount of \$14,775.57 plus the accrued interest in the amount of \$357.71. The Company has a history of failing to pay its yearly assessment on time. A copy of the latest Statement showing the amount of the unpaid 2023 Assessment and accrued interest is enclosed. *Idaho Code* § 61-1005 provides that such assessment may be paid to the commission in equal semi-annual installments on the 15<sup>th</sup> day of May and November each year.

**DEMAND IS HEREBY MADE** that the Company immediately pay the outstanding balance due by hand delivering payment to:

Idaho Public Utilities Commission 11331 W. Chinden Blvd., Bldg. 8, Suite 201-A Boise, Idaho 83714

or by U.S. Mail at:

P.O. Box 83720 Boise, Idaho 83720-0074 Attn: Nancy Ashcraft. If the Commission does not receive the Company's **full payment by December 20, 2023**, the Commission will initiate formal proceedings to compel that payment. Such proceedings may include an administrative proceeding in which the Company is required to appear before the Commission in Boise, Idaho to show cause why the Commission should not order the Company to:

- Immediately pay its unpaid 2023 Assessment plus any accrued interest; and,
- Pay up to a \$2,000.00 penalty per day for the Company's continuing failure to pay the 2023 Assessment and all accrued interest. See Idaho Code §§ 61-706 & 61-707.

Additionally, the Commission may seek a court order to collect the 2023 Assessment and all accrued interest, plus any penalties it may assess. See Idaho Code §§ 61-1005 & 61-712. In both administrative and court proceedings, the Commission would ask the tribunal to order the Company to pay the Commission's attorney's fees and costs to prosecute the case. See Idaho Code §§ 12-117, -120, -121 and Idaho Rule of Civil Procedure 54.

Thank you for your prompt attention to this matter.

Sincerely,

Maria Barratt-Riley Executive Director

Enclosures

cc: Nancy Ashcraft



# **Idaho Public Utilities Commission**

Brad Little, Governor

Eric Anderson, President John R. Hammond, Jr., Commissioner Edward Lodge, Commissioner

BG & CM Railroad 10100 N Ambassador Dr., Ste 105 Kansas City, MO 64153

## **Statement**

Date			
	12/5/2023		

Account #

BGR-R

Date	Transaction			An	nount		Balance
12/31/2020	Balance forward						-0.01
04/19/2021	INV #2021-010.	INV #2021-010.			11,082.12		11,082.11
	2023 Railroad Ass	sessment \$11,082.12					
	Tax: State Sales T	ax @ 6.0% = 0.00					
05/13/2021	PMT #5200. REC210		-11,082.12		-0.01		
04/21/2022	04/21/2022 INV #2022-010.				11,240.90		11,240.89
	2023 Railroad Ass	sessment \$11,240.90	)				
	Tax: State Sales T						
07/05/2022	PMT #5290. REC230		-11,240.89		0.00		
07/05/2022	INV #INT-22-014.	INV #INT-22-014.			49.25		49.25
	Interest Charge \$4	19.25					
	Tax: State Sales T						
04/18/2023	INV #2023-010.			14,775.57			14,824.82
	2023 Railroad Ass						
	Tax: State Sales T						
12/05/2023 INV #INT-23-002.				308.46		15,133.28	
	Interest Charge \$3						
	Tax: State Sales T						
	1						
					1		
CURRENT	1_311114 V C DACT THE T		61-90 DAYS PAST		OVER 90 DAYS		Amount Due
CONNEINT	1-50 DATOTAGE DOL	DUE	DU	JE	PAST DUE		Amount Due
200.46	0.00	0.00	0.4	20	14 92 4 92		#15 133 00
308.46	0.00	0.00	0.0	00	14,824	.82	\$15,133.28

Please contact Nancy Ashcraft at (208) 334-0325 or by email at nancy.ashcraft@puc.idaho.gov if you have any questions or need additional information.