

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Jamie L.)	Docket No. DC-97
Reyes, Director of the Motor)	
Transportation Department of)	
the Nebraska Public Service)	
Commission,)	
)	
Complainant,)	COMPLAINT DISMISSED
v.)	
)	
Burlington Northern Santa Fe,)	
)	
Respondents.)	Entered: November 17, 2020

BY THE COMMISSION:

On July 30, 2020, a Departmental Complaint was filed with the Nebraska Public Service Commission ("Commission") by Jamie L. Reyes, Director of the Motor Transportation Department, seeking a determination that Burlington Northern Santa Fe ("BNSF"), Fort Worth, Texas, blocked the North Road and Highway 2 crossings, in Grand Island, Nebraska, on approximately ten (10) different occasions between December 27, 2018 and February 4, 2020 in violation of Neb. Admin. Code, Title 291, Ch. 4, § 002.09D.

On August 17, 2020 BNSF filed a motion for an extension of time to Answer the complaint. On August 20, 2020 the Hearing Officer entered an Order granting, in part, BNSF's motion for an extension and establishing a responsive pleading deadline of September 19, 2020. On September 10, 2020, BNSF filed a motion for an additional extension of time to Answer the Complaint as well as a Motion to Dismiss. On September 10, 2020 the Hearing Officer entered an order granting, in part, BNSF's motion for an additional extension of time to Answer the complaint and ordered a responsive pleading deadline to be set after a determination on the Motion to Dismiss.

On September 24, 2020, the Hearing Officer entered an order scheduling oral argument in this matter for October 14, 2020. On October 8, 2020, the Hearing Officer entered an Order continuing the oral argument due to ongoing settlement negotiations. Complainant signed a stipulation with BNSF on October 26, 2020, in which Respondent agreed to continue a new operational change to mitigate blocked crossing occurrences at North Road and Nebraska

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Highway 2. In turn, Complainant requests that the Commission dismiss BNSF from the above-mentioned Complaint.

The Commission appreciates that BNSF was able to find a solution which would address the blocked crossing issues along Highway 2. However, the Commission also notes the number of years that the community complained of these issues without any relief. Testimony received during the Commission's initial investigation illustrated the seriousness of the problem and the negative impact that BNSF's train staging operations had on the area residents. We are hopeful that the new operations plan to stage the trains further west will result in fewer blockages; however, we are also concerned about trading one issue for another as other crossings may begin to experience blockages further to the west of Engleman Road. The Commission will continue work with citizens, the city of Grand Island, and Hall County to monitor BNSF's mitigation efforts. Should any further issues arise, the Commission encourages the community to contact the Commission.

Based on the above, the Commission finds that the signed stipulation is satisfactory and therefore Burlington Northern Santa Fe should be dismissed from the Complaint. Respondent is on notice that future blocked crossing allegations may result in subsequent Commission action.

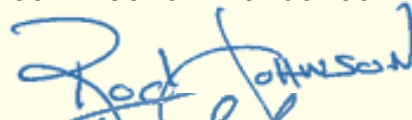


O R D E R


IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Burlington Northern Santa Fe be, and is hereby, dismissed from the Departmental Complaint.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 17th day of November, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chair

ATTEST:


Deputy Director