Service Date: December 16, 1985

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application of BURLINGTON NORTHERN RAILROAD COMPANY to Dualize its Agency Operation at Troy and Libby, Montana.	)))))	TRANSPORTATION DIVISION DOCKET NO. T-8764 ORDER NO. 5655

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FINAL ORDER

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APPEARANCES

FOR THE APPLICANT:

Gerald A. Troy, Assistant General Counsel, Burlington Northern Railroad, Norwest Center, 175 North 27th Street, Billings, Montana 59101

FOR THE COMMISSION:

Geralyn Driscoll, Staff Attorney, 2701 Prospect Avenue, Helena, Montana 59620

BEFORE:

HOWARD L. ELLIS, Commissioner, Presiding
TOM MONAHAN, Commissioner
DANNY OBERG, Commissioner

BACKGROUND

1. The Burlington Northern Railroad Company (hereinafter applicant or BN) filed an application with the Montana Public Service Commission (hereinafter PSC) on May 7, 1985, seeking to dualize its agency operations at Troy and Libby, Montana. BN seeks to use one agent to provide agency service for both locations. That agent would be based in Libby and travel to Troy for set hours each day. In its application BN states that no change in train service is expected because of the dualization.

2. Following notice of the application, a public hearing was conducted on Tuesday, October 22, 1985, at 9:00 a.m., in the Fellowship Hall, Third Street and Kalispell Avenue, Troy, Montana.

SUMMARY OF TESTIMONY

Applicant's Testimony

3. Testifying for BN at the hearing were Verne Hayne, Don Mase, Larry Kurtz and William Allbright.

Testimony of Verne Hayne:

4. Verne Hayne, manager of station services, oversees freight and yard office work in the Seattle region which includes Western Montana, Idaho, Washington and Oregon. He is based out of Seattle, Washington. He testified on the reasons BN is seeking to dualize the Troy and Libby stations.

5. It is BN's corporate policy to utilize centralization and computerization to make train shipments more cost effective. The Libby facility is computerized but Troy is not. To utilize the computer, the Troy agent must call Libby.

6. BN's computer system requires all billing in this region to be processed in Spokane. The Libby terminal of the computer system can provide information on train movement and shipments on a train.

7. The Libby agent is authorized to accept collect calls from shippers outside of Libby. If needed, a "800" number will be added. Currently, Libby operates from 6 a.m. to 10 p.m. with three employees, an agent and two other employees; Troy operates from 7 a.m. to 3 p.m. with one employee, an agent. It is BN's position that the combined total of freight shipments at both locations can reasonably be handled by one agent.

8. Libby and Troy are approximately 20 miles apart. If the stations are dualized the agent will be stationed out of Libby and will travel to Troy at set hours each day. The savings to BN will be one agent's salary. To determine which employee will receive the agent position the job will be "rebulletined." Union agreements on seniority control.

Testimony of Larry Kurtz:

9. Larry Kurtz, Kalispell assistant train manager supervising the train service between Troy and Whitefish, testified about the current train service. Three trains currently serve Troy. A Sandpoint, Idaho to Troy to Sandpoint train as needed, usually two to three days a week; a Troy to Libby to Troy train Monday through Friday; and, a Whitefish to Libby train Monday through Friday. Dualization will not change this train service.

Testimony of William Allbright:

10. William Allbright, a senior analyst with BN stationed in St. Paul, Minnesota, testified and sponsored Exhibit A "Accounting Exhibits for Proposal to Dualize Agency Service at Libby/Troy, Montana."

11. Pages 3 and 8 of Exhibit A show the Libby agency received 7 cars and forwarded 7,172 for a total of 7,179 cars in 1984; received 12 and forwarded 7,481 for a total of 7,493 in 1983; and, received 12 and forwarded 6,337 for a total of 6,349 in 1982. Five hundred and ten railroad cars were forwarded by the Troy agency in 1984. Five hundred and thirty-two cars were forwarded in 1983 and 544 cars in 1982. The primary commodity shipped in this area is pulpwood.

12. Pages 4 and 9 of Exhibit A show the number of units handled and estimated amount of time consumed performing agency

work at the Libby and Troy stations in 1984. Based on studies done by BN, the total time required for agency work at Libby is 2,766 hours. This is 47 percent of the available work hours, therefore 53 percent of employee time is available for other, nonagency, work. Exhibit A, page 4, column d, incorrectly shows 8,000 available work hours. This error, based on the incorrect assumption that there are four employees at Libby, was corrected by Mr. Allbright's testimony. The total time required for agency work at Troy is 368 hours. This is 18 percent of the available work hours, therefore 82 percent of employee time is available for nonagency work. These figures are the basis for BN's opinion that the work of both agencies can be handled by one agent. Line 3 on pages 4 and 9 show different methods of calculating "other station work" because Libby shows a per unit calculation based on the number of cars received and forwarded while Troy shows a per day time measure of the nonagency work of a station that does not forward or receive trains. Applying the unit time factor used to determine Libby agency work to the Troy trains forwarded, time consumed would be 157 hours -- 211 hours less then the 368 hours shown on line 3 of page 9. The per day unit time factor gives the benefit of the doubt to an agency forwarding or receiving less than five cars per day.

13. Mr. Allbright also testified concerning the reports on the net results of operations for both Libby and Troy shown on

pages 5, 6, 10 and 11 of Exhibit A. Page 5 and page 10 reflect the "Belt Carter Formula." Page 6 and page 11 show the same information using the "Burlington Formula." Both of these formulas are methods for calculating the profit of a station. Using the Belt Carter Formula the Libby station showed the following net revenue from railway operations: 1984--$3,482,768; 1983--$2,717,202; and 1982--$790,076. Using the same formula the Troy station showed the following net revenue from railway operations: 1984--$245,749; 1983--$212,865; and 1982--$89,667. Using the Burlington Formula the net gain from operation of agency service at Libby was $1,866,358 in 1984; $1,505,533 in 1983; and $571,900 in 1982. Using the same formula for Troy the figures are $114,184 in 1984; $80,778 in 1983; and $32,235 in 1982.

Verne Hayne Recalled:

14. Mr. Hayne was recalled by BN to clarify testimony concerning train movement orders. He testified that there has been concern expressed by shippers that the absence of a local agent's signature on a bill of lading could cause them inconvenience. Mr. Verne stated that BN is working with the shippers to clarify BN's system to them and to assure them that the absence of a signature will have no significance to them. He also testified that train movement orders are operator work which is computerized. Presently the everyday operator function, such as copying train orders, is handled in Libby.

Protestant's Testimony

15. Jim Mular, Butte, Montana, testified in opposition to the dualization of the Libby and Troy agencies on behalf of the Brotherhood of Railroad and Airline Clerks. He stated both the present agents are guaranteed lifetime jobs by union agreement so there will be little or no cost savings to BN. Mr. Mular disputed BN's contention that it is interested in increasing productivity, reciting a long list of duties once performed by the Troy agent that are no longer required of that agent by BN. Mr. Mular also asserted that dualizing the two agencies would be a violation of << 69-14-101 and 69-14-202, Mont. Code Ann. (hereinafter MCA). He

further asserted that dualizing the stations would be a violation of PSC orders in Docket Nos. T-5696a and T-4245.

16. Ford Kripe testified as a Troy shipper opposed to the dualization. He has shipped from Troy since 1947. He currently operates a cedar post business and has been increasingly dissatisfied with BN's service the last five years. In the past he has rented a siding. During 1984, when the lease was raised from $100 to $900, he quit renting the siding. He was very dissatisfied with BN's handling of this situation, stating that his siding was "red flagged" and the bolts cut without his knowledge. He was billed for 1985 and cannot find anyone to discuss the matter with. It is his opinion that BN is not making a good faith effort to serve shippers in the area.

17. Mr. Kripe also testified concerning the lack of "piggy back" service in the area. "Piggy back" is a less expensive shipping method which utilizes trucks and trains but, BN will only take it from Whitefish, Montana or Spokane, Washington. He would like to see this service in Libby.

18. On cross-examination Mr. Kripe testified that he has not been shipping a significant amount with BN in recent years. He also clarified that he did not testify he paid the 1985 bill for the siding. His testimony was he was billed by BN for a service he did not receive.

FINDINGS OF FACT

19. The Commission finds that according to BN's Exhibit A "Accounting Exhibits for Proposal to Dualize Agency Service at Libby/Troy, Montana" the Libby Agency received and forwarded approximately 7,000 cars per year in 1982, 1983 and 1984. The Troy station forwarded approximately 500 per year during this period.

20. BN witness expressed BN's recognition of the importance of service to the shippers at both locations. BN intends to continue agency service at both Troy and Libby with a dualized agent travelling to both locations.

21. Each application must be evaluated separately and the testimony regarding public convenience and necessity weighed accordingly. Although shippers at each location continue to require daily agency service, the evidence presented at the hearing did not appear to require a full-time resident agent at each station. BN proposes the dualized agent to be stationed at the Libby agency and travel to Troy each day for set hours.

22. The Commission finds that BN has stated that train service to Libby and Troy will continue to be provided at the current level. All station agency functions performed by the Libby and Troy station agents can be adequately handled by the dualized station agent if toll-free telephone service is available and the stations are provided with daily agent service by an agent at the

station. The Commission also finds that BN will maintain both the station depots.

23. The Commission finds that public convenience and necessity does not require the continuance of two full-time station agencies at both Libby and Troy, Montana.

CONCLUSIONS OF LAW

1. The Public Service Commission has jurisdiction over the parties and the matters in this proceeding, pursuant to Title 69, Chapter 14, Montana Code Annotated.

2. The Commission has provided adequate notice and opportunity to be heard to all interested parties in this matter, pursuant to Title 2, Chapter 4, Montana Code Annotated.

3. No rule can be used to determine whether public convenience and necessity requires a given service to be performed. The facts in each case must be separately considered, and from those facts the question is to be determined. See Chicago, M. St. P. & P. R. Co. v. Board of Railroad Commissioners, 225 P.2d 346 (Mont. 1953), cert. denied, 346 U.S. 823 and PSC Order No. 5339, Service Date June, 1985. The Commission concludes that the public convenience and necessity does not require the continuance of a full time station agency at Troy, Montana, and that the Applicant may dualize the Troy station agency with the station agency at Libby, Montana.

4. Burlington Northern Railroad Company shall apply Section 69-14-1001, MCA, as required.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the Burlington Northern Railroad Company Application in Docket No. T-8764, be GRANTED.

IT IS FURTHER ORDERED that Burlington Northern Railroad Company shall insure that toll-free telephone communication with its Libby agency will be available from Troy, Montana. That the dualized station agent based at Libby shall provide agency service at both locations on a daily basis by working at both stations at set hours and as required by the shippers, and that both station depots shall be maintained.

IT IS FURTHER ORDERED that Burlington Northern Railroad Company shall apply Section 69-14-1001, MCA, as required.

IT IS FURTHER ORDERED that this order be effective immediately and that a full, true and correct copy of this Order be mailed to all parties of record.

IT IS FURTHER ORDERED that all objections and motions made during the hearing in this Docket that were not ruled on are hereby DENIED.

DONE AND DATED this 16th day of December, 1985 by a vote of 3-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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HOWARD L. ELLIS, Commissioner

_____
TOM MONAHAN, Commissioner

_____
DANNY OBERG, Commissioner

ATTEST:

Trenna Scoffield
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.