



Commuter Principles

Rev 8-17-07

BNSF is willing to cooperate on commuter rail studies and provide state and local officials with information. Where commuter service is proposed on a minimally used line that BNSF is willing to sell, BNSF shall be paid fair market value for the property. Where commuter service is proposed on a line BNSF intends to continue owning and to be jointly used for commuter and freight use, the following principles apply:

- Any commuter operation cannot degrade BNSF's freight service or negatively affect BNSF's freight customers or BNSF's ability to provide them with service.
- BNSF must be compensated for any and all costs incurred in providing commuter service and make a reasonable return for providing the service.
- Capital investments necessary for commuter service are the responsibility of the public, including investments for future capacity which is potentially more expensive, especially in urbanized areas.
- BNSF will not incur any liability for commuter operations that it would not have but for those operations. These operations are provided by BNSF primarily as a public service; the relatively modest compensation BNSF receives does not begin to justify assuming the significant liability associated with passenger service.
- Studies of how commuter service might be provided must take into account not only the current freight traffic levels, but projected freight traffic growth.
- Investments made for commuter projects must not result in BNSF incurring a higher tax burden. Property improvements should not become part of our tax base; materials used should be exempt from all sales and use taxes, etc. or BNSF must be made whole for any increased tax burden.
- BNSF must retain operating control of rail facilities used for commuter service. All dispatching, maintenance and construction must be done under the control of BNSF. Passenger stations, parking lots and other non-rail facilities may be publicly owned and operated.
- Studies must reflect BNSF's actual operating conditions and cost structures. For example, construction work estimates must reflect our labor contract costs, schedules cannot assume that we will not operate any freight trains during peak commuter periods, etc.
- BNSF will limit commuter operations to the commuter schedules initially agreed upon and for which the capital improvement plan has been designed. Future expansions will have to undergo the same analysis and provide any required capital improvements before schedules can be altered, service added, or stations added.
- Improvements must include grade crossing protection and intertrack fencing as required to minimize the risk of accidents, due to liability and service interruption concerns.