



Thomas Sean McGowan

P 202.585.6976

F 202.508.1031

smcgowan@thompsoncoburn.com

May 20, 2015

238449

238450

238451

238452

VIA ELECTRONIC FILING

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20024

ENTERED
Office of Proceedings
May 20, 2015
Part of
Public Record

Re: STB Finance Docket No. 35846, *Metropolitan Transit Authority of Harris County, Texas--Acquisition Exemption--Union Pacific Railroad Company's Right to Restore Service over Rail Banked Right-of-Way in Harris, Fort Bend, Austin, Wharton, and Colorado Counties, Texas*

STB Finance Docket No. 35847, *Fort Bend County Toll Road Authority--Acquisition Exemption-- Metropolitan Transit Authority of Harris County, Texas's Right to Restore Service over Rail Banked Right-of-Way in Harris, Fort Bend, Austin, Wharton, and Colorado Counties, Texas*

STB Docket No. AB-33 (Sub-No. 156), *Union Pacific Railroad Company--Abandonment--in Harris, Fort Bend, Austin, Wharton, and Colorado Counties, Tx*

STB Docket No. AB-33 (Sub-No. 253X), *Union Pacific Railroad Company--Abandonment Exemption--in Colorado and Wharton Counties, Tx*

Dear Ms. Brown:

Enclosed please find a motion from Metropolitan Transit Authority of Harris County, Houston, Texas and Fort Bend County Toll Road Authority to submit one day late their combined response to the Board's Decision Dated January 26, 2015 in the above-referenced proceedings.

Very truly yours,

Thompson Coburn LLP

By 

Thomas Sean McGowan

Enclosure

The Honorable Cynthia T. Brown
Page 2

cc: Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179
Attn: Counsel's Office

Macik H. Shumate, Jr.
Law Department
Union Pacific Railroad Company
101 North Wacker Drive
Chicago, IL 60606

**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.**

Metropolitan Transit Authority)	
of Harris County, Texas – Acquisition)	
Exemption -- Union Pacific Railroad)	
Company’s Right to Restore Rail)	Finance Docket No. 35846
Service over Rail Banked)	
Right-of-Way in Harris, Fort Bend,)	
Austin, Wharton, and Colorado)	
Counties, Texas)	

Fort Bend County Toll Road)	
Authority – Acquisition Exemption –)	
Metropolitan Transit Authority)	
of Harris County, Texas’s Right to Restore Rail)	Finance Docket No. 35847
Service over Rail Banked)	
Right-of-Way in Harris, Fort Bend,)	
Austin, Wharton, and Colorado)	
Counties, Texas)	

UNION PACIFIC RAILROAD COMPANY--)	
ABANDONMENT--IN HARRIS, FORT BEND,)	AB-33 (Sub-No. 156)
AUSTIN, WHARTON, AND COLORADO)	
COUNTIES, TX)	

UNION PACIFIC RAILROAD COMPANY--)	
ABANDONMENT EXEMPTION--IN)	AB-33 (Sub-No. 253X)
COLORADO AND WHARTON COUNTIES, TX)	

**MOTION FOR LEAVE TO FILE LATE
RESPONSE OF THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS
COUNTY, HOUSTON, TEXAS AND FORT BEND COUNTY TOLL ROAD
AUTHORITY TO THE BOARD’S DECISION DATED JANUARY 26, 2015**

Sean McGowan
Kathleen E. Kraft
Thompson Coburn LLP
1909 K St. NW, Suite 600
Washington, D.C. 20006
(202) 585-6900
(202) 585-6969 (fax)
smcgowan@thompsoncoburn.com
kkraft@thompsoncoburn.com

Attorneys for Metropolitan Transit
Authority of Harris County,
Houston, Texas and Fort Bend
County Toll Road Authority

Dated: May 20, 2015

**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.**

Metropolitan Transit Authority)
of Harris County, Texas – Acquisition)
Exemption -- Union Pacific Railroad)
Company’s Right to Restore Rail) Finance Docket No. 35846
Service over Rail Banked)
Right-of-Way in Harris, Fort Bend,)
Austin, Wharton, and Colorado)
Counties, Texas)

Fort Bend County Toll Road)
Authority – Acquisition Exemption –)
Metropolitan Transit Authority)
of Harris County, Texas’s Right to Restore Rail) Finance Docket No. 35847
Service over Rail Banked)
Right-of-Way in Harris, Fort Bend,)
Austin, Wharton, and Colorado)
Counties, Texas)

UNION PACIFIC RAILROAD COMPANY--)
ABANDONMENT--IN HARRIS, FORT BEND,) AB-33 (Sub-No. 156)
AUSTIN, WHARTON, AND COLORADO)
COUNTIES, TX)

UNION PACIFIC RAILROAD COMPANY--)
ABANDONMENT EXEMPTION--IN) AB-33 (Sub-No. 253X)
COLORADO AND WHARTON COUNTIES, TX)

**MOTION FOR LEAVE TO FILE LATE
RESPONSE OF THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS
COUNTY, HOUSTON, TEXAS AND FORT BEND COUNTY TOLL ROAD
AUTHORITY TO THE BOARD’S DECISION DATED JANUARY 26, 2015**

The Metropolitan Transit Authority of Harris County, Texas (METRO) and the Fort Bend County Toll Road Authority (FBCTRA) submit this Motion for Leave to File Late (Motion) its Response to the Surface Transportation Board's (Board's) January 26, 2015 Decision (Decision II). That Decision II directed METRO and FBCTRA to submit by February 18, 2015 "a more detailed explanation as to what reactivation rights METRO holds in light of [Union Pacific's (UP's)] retained rights." Decision II also invited METRO, FBCTRA, and UP to submit comments on "UP's apparent retained right to veto reactivation." On February 17, 2015, METRO and FBCTRA requested an extension of time to respond to Decision II, as well as a previous Decision I entered by the Board in the abandonment dockets on September 19, 2014. The Board granted that request on February 18, 2015, extending the deadline to reply to Decision I and Decision II to May 19, 2015. METRO and FBCTRA responded to Decision I on May 19, 2015, and now respectfully request the Board's leave to late-file its Response to Decision II.

DISCUSSION

The Board has a policy of accepting filings after a due date when (1) good cause for filing late is shown, (2) filing late will not delay the proceedings, and (3) filing late will not prejudice any party. *Wheeling & Lake Erie Ry Co.—Abandonment Exemption—in Stark Cnty., OH*, STB Docket No. AB-227 (Sub-No. 10X) (STB served Nov. 7, 1997); *Wis. Cent. Ltd.—Abandonment Exemption—in Barron Cnty., Wis.*, STB Docket No. AB-303 (Sub-No. 43X) (STB served March 27, 2014). Here, all three factors are met.

First, good cause exists to file the Response one day later than May 19, 2015 because METRO and FBCTRA were engaged in discussions with UP regarding the content of the Response filing and UP's Comments filing. Indeed, discussions with UP went late into the afternoon of May 19, 2015, extending beyond the 5:00 p.m. electronic filing deadline.

Second, METRO and FBCTRA's filing of its Response one day late will not delay the proceedings. The filing submitted today will further answer the Board's questions regarding a prior filing in the proceeding and the Board's acceptance of today's submission will aid, rather than hinder, the proceeding. Furthermore, this submission will provide the Board with a more complete record on which to base its determination.

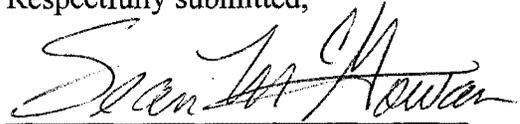
Finally, filing one day late will not prejudice any other party involved in this proceeding. Indeed, counsel for UP, the only other entity involved in this matter besides METRO and FBCTRA, has confirmed to the undersigned that it has no objection to METRO and FBCTRA filing the Response one day late.

CONCLUSION

For the above-stated reasons, METRO and FBCTRA respectfully request that the Board accept their Response to Decision II, submitted today.

Should further information be required, please contact the undersigned.

Respectfully submitted,



Sean McGowan
Kathleen E. Kraft
Thompson Coburn LLP
1909 K St. NW, Suite 600
Washington, D.C. 20006
(202) 585-6900
(202) 585-6969 (fax)
smcgowan@thompsoncoburn.com
kkraft@thompsoncoburn.com

Attorneys for Metropolitan Transit
Authority of Harris County,
Houston, Texas and Fort Bend
County Toll Road Authority

Dated: May 20, 2015

Certificate of Service

I hereby certify that on May 20, 2015, I served a copy of the foregoing *Motion* on the following:

By first class mail, postage prepaid:

Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179
Attn: Counsel's Office

By first class mail, postage prepaid and electronic mail:

Mack H. Shumate, Jr.
Law Department
Union Pacific Railroad Company
101 North Wacker Drive
Chicago, IL 60606



Sean McGowan
Kathleen E. Kraft
Thompson Coburn LLP
1909 K St. NW, Suite 600
Washington, D.C. 20006
(202) 585-6900
(202) 585-6969 (fax)
smcgowan@thompsoncoburn.com
kkraft@thompsoncoburn.com

6171581.2