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SERVICE DATE – JUNE 10, 2016

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36035]

Union Pacific Railroad Company—Trackage Rights Exemption—BNSF Railway
Company

BNSF Railway Company (BNSF), pursuant to a trackage rights agreement dated April 5, 2016, has agreed to grant Union Pacific Railroad Company (UP) overhead trackage rights over approximately 41.3 miles of railroad between milepost 1.6, near Kansas City, Mo., and milepost 42.9, near Paola, Kan., on BNSF's Fort Scott Subdivision.¹

The purpose of the proposed transaction is to allow UP to continue moving trains between Paola and Kansas City, as an alternative to UP's own route, thereby providing for increased efficiency in operations.²

¹ A redacted version of the Agreement between UP and BNSF was filed with the notice of exemption. UP simultaneously filed a motion for a protective order to protect the confidential and commercially sensitive information contained in the unredacted version of the Agreement, which UP submitted under seal in this proceeding. That motion will be addressed in a separate decision.

² UP states that it obtained trackage rights over the rail line as successor to the Missouri-Kansas-Texas Railroad Company (MKT). MKT was granted authority to acquire the trackage rights from Burlington Northern Railroad Company in Missouri-Kansas-Texas Railroad—Trackage Rights—Burlington Northern Railroad, FD 30672 (ICC served July 8, 1985).

UP may consummate the transaction on or after June 24, 2016, the effective date of the exemption (30 days after the verified notice of exemption was filed).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

This notice is filed under 49 C.F.R. § 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by June 17, 2016 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36035, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Jeremy M. Berman, 1400 Douglas St., Stop 1580, Omaha, NE 68179.

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Decided: June 7, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.