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Office of Proceedings

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DECIDED DATE: 12/6/12
SERVICE DATE: 12/7/12
APPROVED: Rachel Campbell
Director

BEFORE THE
SURFACE TRANSPORTATION BOARD

233458
ENTERED

Office of Proceeding
December 5, 2012
Part of Public
Record

TEXAS MUNICIPAL POWER AGENCY,)

Complainant)

v.)

THE BURLINGTON NORTHERN AND)
SANTA FE RAILWAY COMPANY,)

Defendant)

Docket No. NOR 42056

**JOINT MOTION FOR STAY
AND TO HOLD PROCEEDING IN ABEYANCE**

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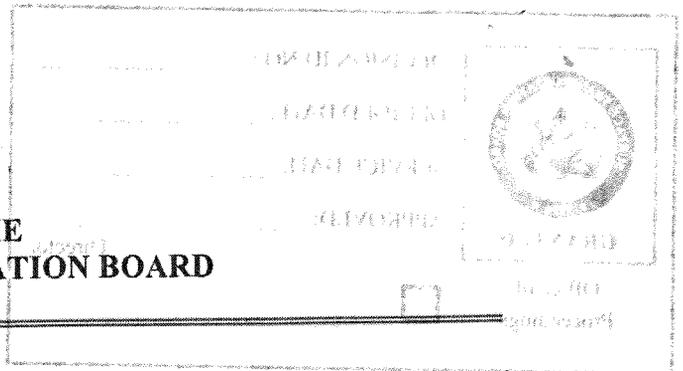
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Dated: December 5, 2012

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SURFACE TRANSPORTATION BOARD**



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Complainant Texas Municipal Power Agency (“TMPA”) and Defendant BNSF Railway Company (“BNSF”) hereby jointly move the Board to hold the above-captioned proceeding in abeyance, and to stay all further proceedings or other actions in the matter, until January 15, 2013.

TMPA and BNSF have recently reached an agreement-in-principle to resolve this litigation without a decision by the Board. The parties believe that they will be able to reach a full and final negotiated resolution of their dispute, and a temporary stay should allow the parties adequate opportunity to complete the final negotiation and documentation of the proposed settlement.

The parties expect that the proposed settlement will be concluded, and that a motion to dismiss the Petition to Reopen with prejudice will likely be filed by TMPA,

on or before January 15, 2013. If these matters are not concluded by that date, however, TMPA and BNSF on that date will advise the Board in writing of the progress they have made in concluding the settlement and what further action (if any) they may request the Board to take at that time.

The parties' request that the Board temporarily hold this proceeding in abeyance, and stay further processing of the case pending the conclusion of the parties' settlement discussions, is consistent with Board practice in similar circumstances. *See, e.g., Seminole Elec. Coop., Inc. v. CSX Transp., Inc.*, STB Docket No. 42110 (STB served Aug. 11, 2010) (holding rate litigation in abeyance pending finalization of settlement agreement where request was reasonable). Granting the parties' request to hold this proceeding in abeyance and to withhold issuance of any decision on the merits is reasonable, will facilitate a privately negotiated resolution of the parties' dispute and will not prejudice any party.

For these reasons, TMPA and BNSF jointly request that the Board temporarily hold this proceeding in abeyance and stay all further proceedings or other actions in the matter, until January 15, 2013.

Respectfully submitted,

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