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SERVICE DATE – NOVEMBER 15, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35776

UNION PACIFIC RAILROAD COMPANY—OPERATION EXEMPTION—IN BEXAR AND  
WILSON COUNTIES, TEX.

Decided: November 14, 2013

This decision imposes a housekeeping stay, postponing the effective date of the exemption sought in this proceeding.

On October 21, 2013, Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. § 1150.31 to operate as a rail common carrier over approximately 7,391 feet of track between milepost 16.1 and milepost 17.5 in Bexar and Wilson Counties, Tex. Notice of the exemption was served and published in the Federal Register, 78 Fed. Reg. 66,802-03, on November 6, 2013. The exemption is scheduled to become effective on November 20, 2013.

On November 13, 2013, BNSF Railway Company (BNSF) filed a petition to reject the notice of exemption and further requested that the Board stay the effectiveness of the exemption if such a stay is needed to afford the Board sufficient time to act on BNSF's petition to reject. BNSF argues that the exemption procedures under § 1150.31 are not appropriate for the transaction contemplated by UP because the transaction presents non-routine and potentially controversial issues relating to BNSF's right to provide competitive service pursuant to conditions imposed in the UP-Southern Pacific Rail Corporation merger proceeding.<sup>1</sup>

A brief housekeeping stay will be imposed to provide sufficient time for replies to be filed and for the Board to fully consider the arguments presented. Any replies must be filed by November 22, 2013. The effective date of the exemption will be postponed until further order of the Board.

It is ordered:

1. The effective date of the exemption is postponed until further order of the Board.
2. Replies must be filed by November 22, 2013.

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<sup>1</sup> See Union Pac. Corp.—Control & Merger—S. Pac. Rail Corp., 1 S.T.B. 233, 419-420 (1996).

3. This decision is effective on its date of service.

By the Board, Daniel R. Elliott III, Chairman.