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April 5, 2011

BY E-FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Docket No. 42104, *Entergy Arkansas, Inc. and Entergy Services, Inc. v. Union Pacific Railroad Company and Missouri & Northern Arkansas Railroad Company, Inc. and BNSF Railway Company*
Finance Docket No. 32187, *Missouri & Northern Arkansas Railroad Company, Inc. – Lease, Acquisition and Operation Exemption – Missouri Pacific Railroad Company and Burlington Northern Railroad Company*

Dear Ms. Brown:

Enclosed for e-filing is Union Pacific's Reply to Arkansas Electric Cooperative Corporation's Petition for a Stay.

Thank you for your attention to this matter.

Sincerely,



Michael L. Rosenthal

Enclosure

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERGY ARKANSAS, INC. and ENTERGY SERVICES, INC., Complainants,)	
)	
v.)	Docket No. 42104
)	
UNION PACIFIC RAILROAD COMPANY and MISSOURI & NORTHERN ARKANSAS RAILROAD COMPANY, INC. and BNSF RAILWAY COMPANY, Defendants.)	
)	
)	
MISSOURI & NORTHERN ARKANSAS R.R. – LEASE, ACQUISITION AND OPERATION EXEMPTION – MISSOURI PACIFIC R.R. and BURLINGTON NORTHERN R.R.)	Finance Docket No. 32187
)	

**UNION PACIFIC’S REPLY TO ARKANSAS ELECTRIC COOPERATIVE
CORPORATION’S PETITION FOR A STAY**

Union Pacific Railroad Company (“UP”) hereby submits this reply to the petition for a stay filed by Arkansas Electric Cooperative Corporation (“AECC”) in the above-captioned dockets on April 4, 2011. For each of the following reasons, UP respectfully requests that the Board deny AECC’s request for a stay.

First, AECC’s petition is untimely. By the Board’s rules, a petition to stay a Board action must be filed within 10 days of service of the action. 49 CFR § 1115.3(f). AECC’s petition was filed on April 4, 2011, 20 days after the March 15, 2011, service of the Board’s decision in this docket.

Second, the Board cannot stay the effectiveness of the decision because the decision took effect, per the Board’s instructions, upon service of the decision. Furthermore, the

Board's decision denied complainants' requests for relief, and therefore no action exists for the Board to stay. The effect of the decision is to leave the status quo unchanged.

Third, although AECC expresses concern that it could be required to seek judicial review absent a stay, its timely filed petition for reconsideration renders the Board's action non-final with respect to AECC. *United Transp. Union v. ICC*, 871 F.2d 1114, 1116 (D.C. Cir. 1989); *see also Gorman v. NTSB*, 558 F. 3d 580, 587 (D.C. Cir. 2009).

Finally, AECC's perfunctory recitation of factors allegedly supporting a stay falls far short of demonstrating that AECC has met the criteria for such extraordinary relief. *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977); *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958).

Respectfully submitted,



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Attorneys for Union Pacific Railroad Company

April 5, 2011

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that on this 5th day of April, 2011, I caused copies of Union Pacific's Reply to Arkansas Electric Cooperative Corporation's Petition for a Stay to be served on counsel for the parties of record by email and first-class mail, postage prepaid.



Michael L. Rosenthal