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March 11, 2009

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: STB Docket No. 42113, *Arizona Electric Power Cooperative v. BNSF Railway Company and Union Pacific Railroad Company*

Dear Acting Secretary Quinlan:

By a letter dated February 20, 2009, complainant Arizona Electric Power Cooperative (“AEPCO”) purports to “amend[] its complaint” in the above-referenced proceeding in two respects. First, AEPCO seeks to have its complaint “encompass BNSF 57988.” BNSF 57988 is a common carrier pricing authority established on February 19, 2009 which provides rates for interline service by defendants BNSF Railway Company (“BNSF”) and Union Pacific Railroad Company (“UP”) from certain mines in the northern Powder River Basin (“PRB”) to AEPCO’s Apache Generating Station near Cochise, Arizona. Second, AEPCO’s February 20, 2009 letter purports to withdraw any claims relating to the rates for transportation from northern PRB mines that were included in Attachment B to AEPCO’s January 30, 2009 Amended Verified Complaint, stating that AEPCO’s claims relating to the rates in Attachment B to the Amended Verified Complaint are “mooted by” the establishment of BNSF 57988.

AEPCO cites no provision of the Board’s rules that permits the amendment of a complaint by a letter. Nevertheless, to the extent AEPCO’s letter withdraws its claims relating to the rates contained in Attachment B to the Amended Verified Complaint, BNSF agrees that those rates should not be the subject of this or any other rate reasonableness proceeding. Those rates were never in effect and they were never used to transport coal. If there was a valid basis for addressing the reasonableness of any rates for movements of coal from northern PRB mines in this proceeding, the only rates that could possibly be the subject of the proceeding would be the rates set out in BNSF 57988.

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Sincerely,



Anthony J. LaRocca
Counsel for BNSF Railway Company

cc: Robert D. Rosenberg, Esq.
Michael L. Rosenthal, Esq.