BEFORE THE
SURFACE TRANSPORTATION BOARD

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

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MOTION TO EXTEND PROCEDURAL SCHEDULE

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ENTERGY SERVICES, INC.
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Dated: December 10, 2009

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Entergy Arkansas, Inc. ("EAI") and Entergy Services, Inc. ("ESI") (collectively, "Entergy") hereby file this motion to extend the procedural schedule in this case. Entergy has been authorized to report that the parties to this case either support or do not oppose the revised schedule that Entergy seeks through this motion.

A. <u>The Need for an Extension of the Current Schedule</u>

The procedural schedule that the Board issued in this case on August 21, 2009 contemplated that the discovery period would end on November 18, 2009 and that

Opening Evidence would be due on January 7, 2010, thus allowing more than seven weeks (*i.e.*, 50 days) after the close of discovery for the preparation of Complainants' Opening Evidence. At present, however, discovery is still ongoing and it appears as though discovery could continue for at least several more weeks in order to allow time for: (i) the completion of document production; (ii) follow-up after review of those document productions; and (iii) potential motions to compel. Under the current schedule, Entergy would be required to file its Opening Evidence without the benefit of complete discovery and without the 50-day, post-discovery period that the Board's schedule contemplated.

Accordingly, Entergy hereby requests that the Board extend the procedural schedule in this case in order to permit the completion of discovery and the preparation of evidence in an adequate and appropriate manner.

B. <u>Entergy's Specific Scheduling Request</u>

Entergy has conferred with counsel for the parties to this case in an effort to develop an extension proposal that is acceptable to all parties. Through ongoing discussions, the parties have been able to reach agreement on the following proposed schedule for the instant proceeding:

Complainants' Opening Evidence	April 7, 2010
Defendants' Reply Evidence	June 4, 2010

Complainants' Rebuttal Evidence	July 9, 2010[1]

This schedule reflects an extension of approximately ninety days in the due date for Complainants' Opening Evidence, and increases the time period for Defendants' Reply Evidence from thirty-six days (under the current schedule) to fifty-eight days (under the proposed schedule) in order to avoid creating any scheduling conflicts for UP.[2]

For the foregoing reasons, Entergy hereby requests that the Board grant the requested extension in the procedural schedule for this case.

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[1] Entergy originally had proposed an extension of approximately sixty days in each of the three evidentiary deadlines. While this proposal was acceptable to M&NA, BNSF, and AECC, the proposal created scheduling problems for UP, whose counsel faces conflicts with the preparation of substantial filings in other STB proceedings in both early and late April.

[2] A shorter extension to the procedural schedule than the 60-day extension that Entergy originally had proposed to the parties would have been inappropriate for two reasons. First, such a shorter period would not have provided Entergy with sufficient time to prepare its evidence after the completion of discovery, which as noted above, remains ongoing. Second, counsel for Entergy has a number of conflicting activities in unrelated matters for other clients that would preclude work on this case during that time.

Respectfully submitted,

ENTERGY ARKANSAS, INC. and
ENTERGY SERVICES, INC.

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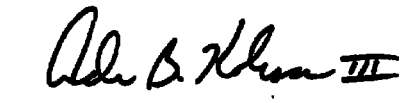
Attorneys & Practitioners

CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of December, 2009, served copies of the foregoing upon counsel for the parties of record in this case.



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