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VIA ELECTRONIC FILING

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

ENTERED
Office of Proceedings
AUG 11 2010
Part of
Public Record

Re: *Petition of Arkansas Electric Cooperative Corporation for a Declaratory Order,*
STB Finance Docket 35305

Dear Ms. Brown:

On August 6, 2010, the Western Coal Traffic League advised the Board of its interest in participating in Board-supervised negotiations to resolve issues in the captioned proceeding "should any negotiations be initiated." The prospect of multi-party negotiations was a topic of discussion at the Board's July 29 hearing in this proceeding. On behalf of BNSF Railway Company, I am writing to confirm BNSF's position regarding negotiations in this particular proceeding.

BNSF strongly favors private resolutions of commercial issues with shippers. With regard to coal dust, BNSF has been and continues to be actively engaged in bilateral discussions with its individual shippers. BNSF has successfully negotiated contracts that address coal dust issues with many of its shippers and anticipates that it will continue to do so successfully. BNSF is also working cooperatively with a number of coal shippers that are participating in the ongoing trial of coal dust suppression technologies, and BNSF expects that that participation will lead to continued bilateral discussions with those BNSF shippers.

There are compelling reasons why it would not be workable to pursue negotiations of coal dust issues among a broader multi-party group of shipper interests. First, most of BNSF's coal transportation business, as well as the majority of Union Pacific's coal transportation business, is handled under confidential bilateral contracts. Those contracts expire at different points in time, and negotiations over terms of new contracts occur at different points in time. It would not be appropriate to address in a public, multi-party context issues that normally are

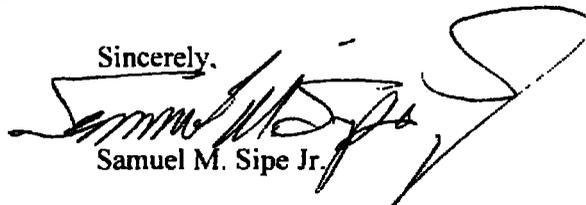
addressed confidentially in bilateral commercial discussions between one railroad and one shipper.

In addition, as the Board knows, BNSF and UP compete vigorously for substantial portions of the coal traffic that originates on the Joint Line. To the extent that the issues raised in this case have commercial overtones, such as the costs of coal dust remediation technology and how those costs are borne, those issues are not an appropriate subject of discussion among competing carriers or, for that matter, among electric utility shippers that compete with one another in power generation markets.

Moreover, a majority of the shipper representatives that were present at the hearing and that have submitted written comments to the Board, including WCTL, have announced their unalterable opposition to virtually every aspect of BNSF's coal dust emissions standards and directly oppose a carrier's right to require shippers to keep their freight inside railcars. In fact, most of the shipper representatives that appeared at the hearing would not accept Commissioner Nottingham's straightforward stipulation that coal dust escapes from railcars with negative effects. It appears that certain shipper representatives view the Board's offer of facilitating cooperative approaches as an opportunity to delay implementation of a coal dust mitigation requirement.

BNSF is concerned that initiating a phase of Board-sponsored negotiations would delay the resolution of this proceeding. The Board has overseen the completion of the record in this proceeding with admirable efficiency and expedition. The Board should move promptly to decide the pending issues so that the parties can proceed with further bilateral negotiated resolutions knowing the rules that will apply.

Sincerely,



Samuel M. Sipe Jr.

cc: Chairman Daniel R. Elliot III
 Vice Chairman Francis P. Mulvey
 Commissioner Charles D. Nottingham
 Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August, 2010, I caused a copy of the foregoing to be served on the following Parties of Record by first class mail, postage prepaid:

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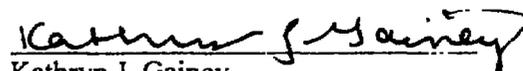
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