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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 35305

PETITION OF ARKANSAS ELECTRIC COOPERATIVE
CORPORATION FOR A DECLARATORY ORDER

ARKANSAS ELECTRIC COOPERATIVE CORPORATION'S
NOTICE OF PARTIAL WITHDRAWAL OF
MOTION TO COMPEL DISCOVERY FROM BNSF RAILWAY COMPANY

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Counsel for Arkansas Electric Cooperative
Corporation

Dated: February 22, 2010

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SURFACE TRANSPORTATION BOARD**

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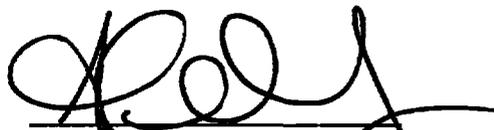
Arkansas Electric Cooperative Corporation ("AECC") hereby withdraws in part its Motion to Compel Discovery (the "Motion") from BNSF Railway Company ("BNSF"), as described more fully below.

In its Motion, AECC asked the Board to compel BNSF to respond to several discovery requests to which BNSF had objected, including Interrogatories Nos. 22, 24, 25, and Requests for Production Nos. 7, 30, 35, 37, and 57. In its Reply to AECC's Motion, BNSF represents that it has in fact conducted a reasonable search and has provided all documents and information responsive to these interrogatories and document requests, even though its discovery responses indicated that it refused to do so. Based on BNSF's representations in its Reply, AECC hereby withdraws the Motion to the extent it seeks to compel responses to these requests, provided that BNSF identify, by Bates number, the produced documents that respond to each of these requests. AECC's counsel has so advised BNSF's counsel in a letter delivered earlier today, a copy of which is attached hereto as Exhibit A.

In an effort to resolve other discovery disputes, AECC has asked BNSF to clarify its responses with respect to Requests for Production Nos. 8-11, 20, 27-28, 31 and Interrogatory No. 5; BNSF responded to these discovery requests by representing that it has provided documents that were produced in previous litigation known as *Union Pac. RR v. Entergy Arkansas, Inc.*, CV 2006-2711, Pulaski Co., Ark., Cir. Ct. ("*UP v. Entergy*"). In Exhibit A, AECC has asked that BNSF provide copies of the discovery requests and responses in *UP v. Entergy* to which it refers, and to specify which discovery requests in *UP v. Entergy* it claims are comparable to each of the foregoing discovery requests, and further to clarify whether BNSF did in fact produce the documents that were requested in *UP v. Entergy*.

Although AECC intends to continue discussions with BNSF in an effort to informally resolve the issues addressed in the Motion, AECC respectfully suggests that a conference under 49 CFR § 1114.31 (a) (3) could be helpful to expedite such resolution.

Respectfully submitted,



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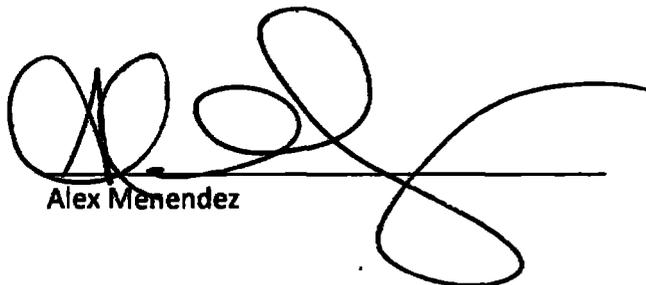
Dated: February 22, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February 2010, I caused a copy of the foregoing to be served by first class mail postage prepaid, to:

Thomas W. Wilcox
Gkg Law, P.c.
Canal Square, 1054 31st Street, N. W, Suite 200
Washington, DC 20007-4492
Counsel for Tuco Inc and National Coal Transportation Association

I further certify that I caused a copy of the foregoing to be served electronically on all other parties of record on the service list in this action.



Alex Menendez

EXHIBIT A

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February 22, 2010

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RE: Petition of Arkansas Electric Cooperative Corporation For a
Declaratory Order, STB Finance Docket No. 35305

Dear Tony,

This follows up on my letter to you dated February 10, 2010, in which I suggested that, if "BNSF has in fact provided the information requested in many of AECC's discovery requests [as your February 10 letter implied], even though BNSF's formal written responses indicated that it was not doing so," then BNSF could resolve some of the concerns AECC had raised "by filing amended responses". BNSF's reply to AECC's motion to compel has indeed done this, by representing that, in response to several of AECC's discovery requests, BNSF has conducted a reasonable search and has produced all responsive documents.

Accordingly, AECC will notify the Board that it is withdrawing its motion to compel with respect to the following discovery requests: Interrogatories 22, 24, and 25, and Requests for Production 7, 30, 35, 37, and 57.

We request that you advise us, by Bates number, of the produced documents that respond to each of these requests. Please see Instruction No. 5 to AECC's "First Set of Interrogatories and Requests for Production of Documents to BNSF Railway Company".

In addition, BNSF's reply states that there are several other AECC discovery requests to which BNSF has responded by producing the same documents that BNSF produced in previous litigation known as Union Pac. RR v. Entergy Arkansas, Inc., CV 2006-2711, Pulaski Co., Ark., Cir. Ct. ("UP v. Entergy"), and BNSF argues that AECC should be satisfied with these

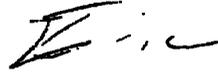
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Anthony J. LaRocca, Esq.
February 22, 2010
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responses. I infer that BNSF is representing that discovery requests in UP v. Entergy were substantially the same as certain of the requests that AECC has made in this case, and that BNSF did produce the documents that were requested in UP v. Entergy. So that AECC can evaluate those representations, please send me the discovery requests and written responses in UP v. Entergy to which BNSF is referring, and please indicate which discovery requests in UP v. Entergy correspond to which AECC discovery requests.

With respect to our other discovery disputes, I reiterate the offer I made in my February 10 letter to discuss a resolution of these issues at a mutually convenient time; I would prefer to do this by telephone. Please email me at vonsalz@aol.com or call me at my home office, (910) 235-5274, to schedule a telephone conference.

Sincerely,



Eric Von Salzen

cc: Mr. Steve Sharp, AECC
Alex Menendez, Esq.

Samuel Sipe, Esq. (ssipe@steptoe.com)
Kathryn J. Gainey, Esq. (kgainey@steptoe.com)