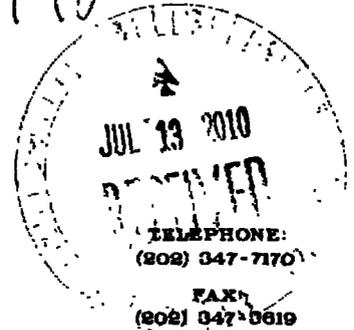


227428

SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003



WILLIAM L. SLOVER
MICHAEL LOFTUS
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
STEPHANIE P. LYONS
JOSHUA M. HOFFMAN
STEPHANIE M. ADAMS

OF COUNSEL
DONALD G. AVERY

July 13, 2010

WRITER'S E-MAIL:

dmj@sloverandloftus.com

BY HAND DELIVERY

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

ENTERED
Office of Proceedings

JUL 13 2010

Part of
Public Record

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

Dear Ms. Brown:

Enclosed for filing under seal in the above-referenced proceeding are an original and 20 copies of the Highly Confidential version of the Errata to the Rebuttal Evidence of Complainant Arizona Electric Power Cooperative, Inc. This filing also includes corrected/redlined narrative pages, as referenced in the Errata. Also enclosed for filing are an original and 10 copies of the Public Version of this Errata filing.

Kindly acknowledge receipt and filing of these materials by date-stamping the extra copy of this filing and returning it to our messenger.

Respectfully submitted,

Daniel M. Jaffe
An Attorney for Complainant

Enclosure

cc (w/enclosure): Counsel for Defendants per Certificate of Service

227428

BEFORE THE
SURFACE TRANSPORTATION BOARD

JUL 13 2010

ARIZONA ELECTRIC POWER)	
COOPERATIVE, INC.)	
)	
Complainant,)	
)	
v.)	Docket No. 42113
)	
BNSF RAILWAY COMPANY)	
)	
and)	ENTERED
)	Office of Proceedings
UNION PACIFIC RAILROAD)	JUL 13 2010
COMPANY)	Part of
)	Public Record
Defendants.)	

**ERRATA TO REBUTTAL EVIDENCE OF COMPLAINANT
ARIZONA ELECTRIC POWER COOPERATIVE, INC.**

Complainant Arizona Electric Power Cooperative, Inc. ("AEPCO") submits the following errata to its Rebuttal Evidence filed in this proceeding on July 1, 2010.

I. CORRECTIONS TO THE REBUTTAL NARRATIVE

AEPCO has discovered several corrections that should be made to its Rebuttal narrative. All of the corrections are described below.

Page I-40, last line: "is probative" should read "is not probative".

Page III-C-36, line 14: "19 outages" should read "20 outages".

Page III-F-3, Rebuttal Table III-F-1, line 10, column "AEPCO Rebuttal": "5,576.5" should read "5,595.1".

Page III-F-3, Rebuttal Table III-F-1, line 11, column "AEPCO Rebuttal": "63.5" should read "58.3".

Page III-F-3, Rebuttal Table III-F-1, line 12, column “AEPCO Rebuttal”:
“535.9” should read “537.8”.

Page III-F-3, Rebuttal Table III-F-1, line 13, column “AEPCO Rebuttal”:
“617.6” should read “619.1”.

Page III-F-3, Rebuttal Table III-F-1, line 14, column “AEPCO Rebuttal”:
“6,793.5” should read “6,810.4”.

Page III-F-48, lines 19 and 20: “I the ANR route mile” should read “in the
ANR’s route miles”.

II. CORRECTIONS TO THE REBUTTAL ELECTRONIC WORKPAPERS

AEPCO notes that Rebuttal e-workpaper “Ballast Haul
Miles.REBUTTAL.xls” inadvertently included a link to an interim file¹ that is not
required in calculating AEPCO’s final Rebuttal road property investment costs. As such,
the link should be ignored.

Redlined versions of the revised pages of AEPCO’s Rebuttal narrative
containing the corrections described above are submitted herewith. These narrative
pages can be substituted for the pages in the version of AEPCO’s Rebuttal Evidence
filed on July 1, 2010.

¹“Copy of Ballast Haul Miles REBUTTAL_bds.wrw.xls.”

Respectfully submitted,

ARIZONA ELECTRIC POWER
COOPERATIVE, INC.

By: William L. Slover
Robert D. Rosenberg
Christopher A. Mills
Andrew B. Kolesar III
Daniel M. Jaffe 
Stephanie M. Adams
Slover & Loftus LLP
1224 Seventeenth Street, NW
Washington, DC 20036
(202) 347-7170
(202) 347-3619 (fax)

Of Counsel:
Slover & Loftus LLP
1224 Seventeenth Street, NW
Washington, DC 20036
(202) 347-7170

Dated: July 13, 2010

Attorneys & Practitioners

On Opening, AEPCO derived its common earthwork unit cost from excavation and embankment costs that BNSF actually experienced on projects that BNSF undertook on lines replicated by the ANR. BNSF/UP claim unit costs in the Means Handbook are more appropriate because (1) the ANR could not reasonably expect to achieve the lower unit cost in geographic areas outside of those where the projects occurred, which BNSF/UP mistakenly believe are located only in Wyoming, and (2) expansion projects such as the construction of a second main track supposedly cost less because preparation work that has already been performed when constructing the first track. BNSF/UP Reply at III.F-20-23. As AEPCO explains in Rebuttal Part III-F-2-b-ii-(a), *infra*, BNSF/UP's assault on BNSF's own actual unit costs cannot withstand scrutiny. For example, AEPCO's common earthwork unit costs incorporate a project that BNSF conducted in the Amarillo, TX area. BNSF/UP have also made no showing that unit costs would be higher in other regions traversed by the ANR or that BNSF actually achieved any savings on its lower common earthwork unit costs because of work that had already been done when building the first track in the areas of the expansion projects. Moreover, BNSF/UP make no effort to account for the added complications and expense of building expansion projects next to active lines over which traffic is moving.

BNSF/UP claim that AEPCO's Opening cost for ballast does not include sufficient transportation and that at least one other source of ballast would be necessary. BNSF/UP Reply at III.F-53-55. AEPCO accepts this limited criticism and makes an appropriate adjustment, as discussed in Rebuttal Part III-F-3-b-ii-(a), *infra*. However, BNSF/UP's Reply ballast unit cost is not probative because BNSF/UP rely on a supposed

treated 20 as bringing train operations to a complete standstill – that is, the train speed on the main track(s) at the location of each outage is shown as zero miles per hour. See Rebuttal e-workpaper “RTC Reply Form B “0” Outages.xls.”

These outages generally involved a switch problem that either affected only one of two main tracks, or that occurred in an area with one main track but was not of a nature that should have required train operations to be stopped altogether while the problem was fixed.

Mr. Reistrup reviewed these 20 outages with AEPCO Witnesses Schuchmann and Davis²⁵ to determine whether it is appropriate to treat them in the Rebuttal RTC simulation as “zero mph” outages for all main tracks at the location involved, or whether trains could be allowed to operate by the location at restricted speed (10 mph) either on the adjacent main (if the location has two main tracks) or on the affected main (in single-track locations). They concluded that for eight of the 1920 outages, train operations do not need to be halted altogether and that trains could continue to move past the affected location at restricted speed.

For example, {

²⁵ Mr. Schuchmann, who conducted the RTC Model simulation, is a former NS operating officer. Mr. Davis, who designed the ANR’s MOW plan, is a former NS Track Supervisor and also held other positions related to MOW in the NS Engineering department.

REBUTTAL TABLE III-F-1
ANR ROAD PROPERTY INVESTMENT COSTS
(millions)

Item	AEPCO Opening	BNSF/UP Reply	AEPCO Rebuttal
1. Land	\$ 217.1	\$ 217.1	\$ 217.1
2. Roadbed Preparation	1,147.8	2,088.2	1,274.2
3. Track Construction	2,518.7	2,982.9	2,771.9
4. Tunnels	54.5	74.2	54.5
5. Bridges	795.6	736.2	736.2
6. Signals & Communications	294.5	331.3	305.8
7. Buildings & Facilities	131.0	225.4	175.7
8. Public Improvements	62.7	59.9	59.8
10. Subtotal	\$5,222.1	\$6,708.8	\$5,576.5 <u>5,595.1</u>
11. Mobilization	56.5	123.0	63.5 <u>58.3</u>
12. Engineering	500.5	649.2	535.9 <u>537.8</u>
13. Contingencies	577.9	748.1	617.6 <u>619.1</u>
14. Total Road Property Investment Costs	\$6,357.0	\$8,236.8	\$6,793.5 <u>6,810.4</u>

1. Land

BNSF/UP have accepted AEPCO's land valuation costs. BNSF/UP Reply at III.F-2. However, BNSF/UP disagreed with AEPCO's treatment of land values in the DCF model. *Id.* This issue is addressed in Part III-G of this Rebuttal.

2. Roadbed Preparation

AEPCO's Opening roadbed preparation costs and quantities were developed using the same basic techniques that have been repeatedly employed in other SAC proceedings before the Board. AEPCO utilized the ICC Engineering Reports, in large part, to develop various earthwork quantities, and then applied real-world project costs or Means Handbook unit costs as necessary. BNSF/UP's various critiques of AEPCO's Opening costs and quantities are addressed below.

Stated differently, as the ICC Engineering Reports do not show the location of retaining walls, AEPCO assumed all retaining walls were put in place for the initial main track. The seven valuation sections where the masonry retaining walls are located include miles of second main and yard track that the ANR does not construct, yet AEPCO included the total amount of retaining walls for the valuation section in determining the average amount per route mile. For these seven valuation sections, the route (first main track) miles range from only 17% to 84% of the total miles. See Rebuttal e-workpaper "ANR GRADING REBUTTAL.xlsx," tab "ICC ER Masonry Ret Walls." By assigning all the masonry retaining walls to the route miles, AEPCO has most likely overstated the quantities. Thus, BNSF/UP's increase of retaining wall quantities by a factor of 1.54 times is unwarranted.

AEPCO also notes that its methodology for calculating the quantity of retaining walls on the ANR has been accepted by the Board in numerous prior stand-alone cost proceedings including *WFA/Basin* at 89 (where the parties agreed) and *AEP Texas* at 84.

On Rebuttal, AEPCO continues to rely on its Opening methodology for calculating the masonry retaining wall quantities. However, AEPCO's Rebuttal quantities increased slightly over Opening due to the minor increase in the ANR's route miles described in Part III-B above.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July, 2010, I caused copies of AEPCO's Errata to Rebuttal Evidence, including corrected/redlined narrative pages to be served by hand on counsel for Defendants Union Pacific Railroad Company and BNSF Railway Company, as follows:

Samuel M. Sipe, Esq.
Anthony J. LaRocca, Esq.
Steptoe & Johnson LLP
1330 Connecticut Avenue. NW
Washington, DC 20036-1795

Linda J. Morgan, Esq.
Michael L. Rosenthal, Esq.
Covington & Burling
1201 Pennsylvania Avenue. NW
Washington, DC 20004-2401


Daniel M. Jaffe