

OMAHA PUBLIC POWER DISTRICT,
Complainant,
v.
UNION PACIFIC RAILROAD COMPANY,
Defendant.

CRAIG V. RICHARDSON
JAMES B. BOLES
TONYA W. CONLEY
WHITNEY C. LARKIN
Union Pacific Railroad Company
1400 Douglas Street
Omaha, Nebraska 68179

MICHAEL L. ROSENTHAL
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, D.C. 20001
(202) 662-6000

August 23, 2022

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

OMAHA PUBLIC POWER DISTRICT,	)	
	)	
Complainant,	)	
	)	
v.	)	NOR 42173
	)	
UNION PACIFIC RAILROAD COMPANY,	)	
	)	
Defendant.	)	
	)	

**UNION PACIFIC RAILROAD COMPANY'S
RESPONSE TO OPPD'S REPLY**

UP is filing this short response to express its agreement with OPPD's suggestion that the Board allow *both* parties "to obtain discovery of information and documents bearing on certain threshold issues," OPPD Reply at 1, while suspending both parties' obligations to respond to each other's more extensive discovery requests until it has an opportunity to rule on those threshold issues. UP believes this is the most fair, efficient way to proceed.

On August 22, 2022, UP served its written responses and objections to all the requests in OPPD's 164-question set of initial discovery requests. Although UP served its written responses and objections in compliance with the deadline imposed by OPPD, UP does not plan to begin the more costly, more burdensome process of producing responsive documents and data before the Board rules on its motion for a protective order. However, UP is willing to produce information responsive to the more limited subset of requests that OPPD identifies in its Reply (*i.e.*, Requests for Admission Nos. 1, 2, and 3; Interrogatories Nos. 1, 2, 3, and 4; and Requests for Documents Nos. 1, 2, 3, 4, 5, 6, 7 and 8, as well as the requests in OPPD's second set of discovery requests), subject to the usual meet and confer process, as long as OPPD agrees to follow the same process

with respect to UP's initial set of eight discovery requests. This process will give both parties a fair and efficient opportunity to address what OPPD recognizes are "threshold issues."¹

Respectfully submitted,

CRAIG V. RICHARDSON
JAMES B. BOLES
TONYA W. CONLEY
WHITNEY C. LARKIN
Union Pacific Railroad Company
1400 Douglas Street
Omaha, Nebraska 68179

/s/ Michael L. Rosenthal
MICHAEL L. ROSENTHAL
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, D.C. 20001
(202) 662-6000

Attorneys for Union Pacific Railroad Company

August 23, 2022

¹ UP disagrees with most of OPPD's Reply to UP's motion, but in accordance with Board rules prohibiting parties from filing a reply to a reply, this pleading addresses only OPPD's proposed alternative to the relief requested by UP.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of August, 2022, I caused a copy of the foregoing document to be served by email on all parties of record in STB Docket No. NOR 42173.

/s/ Michael L. Rosenthal