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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 34030

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December 23, 2024
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Public Record

KANSAS & OKLAHOMA RAILROAD, INC.—ACQUISITION EXEMPTION—
CENTRAL KANSAS RAILWAY, LLC

**UNION PACIFIC'S REPLY TO WESKAN GRAIN'S
PETITION TO REOPEN AND PARTIALLY REVOKE EXEMPTION**

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The Board should deny Weskan Grain LLC’s petition because it cannot grant the requested relief. Weskan wants the Board to order Union Pacific Railroad Company and Kansas & Oklahoma Railroad, LLC, to remove an interchange commitment from a lease governing K&O’s operation of a Union Pacific line. However, a Board decision revoking its authorization of the lease would not accomplish that objective. Even if the Board were to revoke its authorization of the lease, it could not then require Union Pacific to seek approval of a lease without an interchange commitment—Union Pacific could simply choose not to lease the line to K&O. *See Entergy Ark., Inc. v. Union Pac. R.R.*, NOR 42104, slip op.at 13 (STB served June 26, 2009) (“*Entergy I*”); *Entergy Ark., Inc. v. Union Pac. R.R.*, NOR 42104, slip op.at 18–19 (STB served Mar. 15, 2011) (Nottingham, Vice Chairman, commenting).

The Board should also deny the petition because Weskan can more directly challenge the alleged behavior about which it complains by filing a rate reasonableness claim. Weskan’s complaint in this case is not that the interchange commitment precludes K&O from providing a rate to interchange traffic with a carrier other than Union Pacific. Nor is Weskan’s complaint that K&O refuses to provide such a rate. Weskan’s complaint

is that the rate K&O provided is “extraordinarily high” and “makes the requested transportation prohibitively expensive.” Weskan Petition at 9, 10. A rate reasonableness proceeding would allow Weskan to obtain effective relief if K&O’s rate is actually unreasonable. In these circumstances, the Board should require Weskan to pursue such appropriately tailored relief before it considers revocation, which would result only in the termination of K&O’s lease. *See Entergy I* at 13.¹

Respectfully submitted,

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¹ To be clear, revoking the exemption would not be warranted even if K&O’s rate were found unreasonable, but if the rate is not unreasonable, that would provide an additional reason not to disrupt the current lease arrangement between K&O and Union Pacific.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of December, 2024, I caused a copy of the foregoing document to be served electronically on counsel for Weskan Grain LLC and Kansas & Oklahoma Railroad, LLC.

/s/ Michael L. Rosenthal