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Public Record

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

Re: FD 36186 (Sub-No. 1), *Texas Railway Exchange LLC – Construction and Operation Exemption – Galveston County, TX – Petition for Issuance of a Crossing Order Pursuant to 49 U.S.C. § 10901(d)*

Dear Ms. Brown:

To protect its interests in minimizing delay and preserving its right to rebuttal, Texas Railway Exchange LLC (“TREX”) replies briefly to the Motion to Strike of Union Pacific Railroad Company (“UP”). 49 C.F.R. § 1104.13(a) (allowing replies to a motion); *Pennsylvania R.R. – Merger – New York Cent. R.R.*, FD 21989 (Sub-No. 4) (STB served Jan. 10, 2011) at 7 (filing struck where party did not respond to claim that it had filed a reply-to-reply).

UP’s Motion to Strike should be denied. TREX replied directly to UP’s alternative procedural schedule, which departs dramatically from the Board’s Modified Procedures, 49 C.F.R. § 1112.2 (requiring rebuttal), and threatens to eclipse the 120-day statutory deadline for crossing cases in 49 U.S.C. § 10901(d)(2). Also, TREX sought leave to respond to UP’s proposed schedule to the extent deemed necessary, and “good cause exists to allow a reply because [opposing party] has requested a significant modification to” the party’s procedural proposal. *Sierra R.R. & Sierra N. Ry. v. Sacramento Valley R.R., LLC et al.*, FD 42133 (STB served Mar. 9, 2012) at 1 n.1 (involving protective order).

For the reasons stated, the Board should deny UP’s Motion to Strike and adopt TREX’s modified procedural schedule.

Sincerely,

Peter A. Pfohl

An Attorney for Texas Railway Exchange LLC

CERTIFICATE OF SERVICE

I hereby certify that I have this 5th day of March, 2019, caused a copy of the foregoing filing to be served by U.S. Mail, postage prepaid or by more expedited means upon all parties of record.

/s/

Katherine F. Waring
An Attorney for Complainant