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October 8, 2003

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 711
Washington, DC 20423

**ENTERED
Office of Proceedings**

OCT - 9 2003

**Part of
Public Record**



Re: Docket No. 41191 (Sub-No. 1), *AEP Texas North Company*
v. The Burlington Northern and Santa Fe Railway Company

Dear Secretary Williams:

On September 22, 2003, AEP Texas North Company ("AEP Texas") submitted its Reply in Opposition to Motion to Dismiss in the above-captioned proceeding. In connection with that Reply, AEP Texas noted that BNSF had filed a Motion for Reconsideration of the August 5, 2003 Order entered by the United States District Court for the District of Texas, Fort Worth Division, in which the District Court referred the issue of rate reasonableness to the Board and stayed BNSF's action under 49 U.S.C. § 10743 pending that referral. AEP Texas Reply at 6, n. 1. The purpose of this letter is to advise the Board that the District Court recently denied BNSF's Motion for Reconsideration. A copy of the Order Denying Motion for Reconsideration of the Court's August 1, 2003 Order is attached hereto as Exhibit A.

An additional copy of this filing also is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Honorable Vernon A. Williams
October 8, 2003
Page 2

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'KJD', with a large, stylized flourish extending from the end.

Kelvin J. Dowd
An Attorney for
AEP Texas North Company

KJD:dmb
Enclosure
cc: Parties of Record

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

OCT - 6 2003

CLERK, U.S. DISTRICT COURT
BY _____
DEPUTY

THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY

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VS.

CIVIL ACTION NO.4:03-CV-213-Y

AMERICAN ELECTRIC POWER
COMPANY, INC., ET AL.

ORDER DENYING MOTION FOR
RECONSIDERATION OF THE COURT'S AUGUST 1, 2003, ORDER

Pending before the Court is plaintiff The Burlington Northern and Santa Fe Railway Company's Motion for Reconsideration of the Court's August 1, 2003, Order Granting Defendant's Motion to Refer to the Surface Transportation Board and Motion to Stay Pending Referral and Administratively Staying Case, filed September 9, 2003. Having carefully considered the motion and the response, the Court concludes that it should be DENIED for the same reasons as stated in the Court's August 1, 2003, order.

Therefore, it is ORDERED that the plaintiff's Motion for Reconsideration [doc. # 35-1] is DENIED.

SIGNED October 6, 2003.

Terry R. Means
TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

TRM/knv