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September 21, 2004

VIA HAND DELIVERY

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

Office of Proceedings
SEP 21 2004

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

Dear Secretary Williams:

Enclosed for filing in the referenced proceeding please find an original and ten copies of Complainant AEP Texas North Company's ("AEP Texas") Motion for Extension of Time to respond to Defendant's Motion to Strike portions of AEP Texas' Rebuttal Evidence. Because the present due date for AEP Texas' Reply to the Motion to Strike is just over a week away, AEP Texas requests that the Board give **EXPEDITED CONSIDERATION** to the enclosed Motion. Counsel for BNSF has indicated that BNSF intends to oppose the proposed five-week extension.

An additional copy of this pleading also is enclosed. Please indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter. Thank you for your prompt attention to this matter.

Sincerely,



Kelvin J. Dowd

KJD:dmb
Enclosures
cc: David M. Konschnik
Counsel for BNSF

SEP 21 2004
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EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

SEP 21 2004
RECEIVED

AEP TEXAS NORTH COMPANY)

Complainant,)

v.)

THE BURLINGTON NORTHERN AND)
SANTA FE RAILWAY COMPANY)

Defendant.)

Docket No. 41191 (Sub-No.1)

COMPLAINANT'S MOTION FOR EXTENSION OF TIME

Complainant AEP Texas North Company ("AEP Texas") hereby requests an extension of approximately five weeks, until November 5, 2004, to respond to the Motion to Strike filed by Defendant The Burlington Northern and Santa Fe Railway Company ("BNSF") on September 9, 2004. *AEP Texas requests expedited consideration of this Motion as its Reply to BNSF's Motion to Strike is otherwise due on September 29, 2004, which is only eight days from the date hereof.*

AEP Texas seeks this extension because additional time is required to evaluate and respond fully to BNSF's allegations regarding AEP Texas' Rebuttal simulation of the operations of its stand-alone railroad, the Texas & Northern Railroad ("TNR"). See Motion to Strike at 19-20. AEP Texas' initial investigation of that allegation has revealed disconnects between the number of peak-period loaded coal trains BNSF claimed to have removed from AEP Texas' traffic group for purposes of

conducting its own Reply simulation of the TNR's peak-period operations, the total number of trains that should have resulted if the trains ostensibly removed by BNSF are added back into the simulation, and the actual number of trains added by AEP Texas for purposes of its Rebuttal simulation. The disconnects apparently arise from problems with the train file used by BNSF in conducting its Reply simulation, which file AEP Texas then used as the basis for its Rebuttal simulation in order to minimize areas of dispute between the parties.

Although the precise extent and impact of these data disconnects can only be evaluated through use of the RTC simulation model,¹ it is clear that a problem exists with the train file used by BNSF in its Reply simulation. For example, on Opening AEP Texas simulated the operation of a total of 854 trains during the peak period of the peak traffic year (2020), including 716 loaded coal trains. According to the electronic workpapers accompanying BNSF's Reply RTC simulation, BNSF modeled the operation of a total of 638 trains, including 500 loaded coal trains, and removed either 151 or 183 loaded coal trains from AEP Texas' Opening simulation.² If 183 coal trains are added to

¹ AEP's preliminary investigation indicated that disconnects between the parties' train files do exist. As a result, on Friday afternoon, September 17, 2004, counsel for AEP Texas contacted the Board's Office of Proceedings and requested that the laptop computer with the RTC Model that AEP Texas had provided to the Board as part of its Rebuttal electronic workpapers be returned so that AEP Texas' experts could determine the actual extent of the problem and whether an additional RTC simulation to correct errors in the parties' Reply and Rebuttal simulation train files was needed. The Model was returned to AEP Texas on the afternoon of September 20, 2004.

² See BNSF Reply Electronic Workpapers, Folder "RTC Affirmative," file "copkstat BNSF Affirmative, Worksheet "Removed." The number of trains removed equaled 151 according to the train ID symbols, but more than one train appears to be covered by some ID symbols and the "2020 Train Count" thus appears to total 183 trains.

the 500 trains BNSF said it modeled, the total number of coal trains included in the simulation would equal 683. On Rebuttal, AEP Texas restored all but six loaded coal trains to the TNR's peak-period train count, which should have produced a total of 710 coal trains. *See* AEP Texas Rebuttal Exhibit II-B-5. However, it now appears that at least 46 loaded coal trains are unaccounted for in BNSF's Reply simulation, which in turn impacted AEP Texas' Rebuttal simulation since AEP Texas utilized BNSF's train file -- supplemented by trains that BNSF said it removed -- as the basis for its model run.

In order to assure that the Board has accurate, complete simulation data for the TNR's peak-period operations, which will confirm the TNR's feasibility in terms of being able to meet the transportation needs of its traffic group (*PSCo/Xcel* at 23), AEP Texas has commenced a side-by-side comparison of the parties' Reply and Rebuttal RTC train files to determine the actual number of loaded coal trains that should be added to the model set to match the total included in AEP Texas' Rebuttal Exhibit III-B-5 and thus the total number of trains used to develop peak-period operating statistics and annual operating expenses. This exercise can only be completed by running an additional RTC simulation using corrected train counts. AEP Texas has determined that an extension of the Reply due date to November 5, 2004 is needed to resolve the train-count discrepancies, conduct the additional RTC simulation, and document the results in its Reply filing.

As part of its Motion to Strike, BNSF submitted new evidence in the form of the results of two new RTC runs. *Id.* at 17, 19 and Exhibit 2 (*Wheeler V.S.*) at 2-3. Although that evidence amounted to improper surrebuttal, rather than requesting that the Board strike it AEP Texas believes that justice best would be served by correcting the

problems arising from BNSF's Reply RTC train file, and presenting the results of a corrected RTC simulation that includes all appropriate, peak-period trains.

This is the first railroad rate case in which both parties have agreed on the appropriate computerized model to be used to test the feasibility of a SARR's system configuration and operating plan. Applying the RTC Model to a railroad as large (in terms of both geographic scope and traffic volume) as the TNR, however, is unprecedented both as a matter of regulatory procedure and real-world train operations. The Board plainly has an interest in obtaining reliable results from the parties' SAC presentations, including the modeling of SARR operations. *PSCo/Xcel* at 27. Granting the extension requested by AEP Texas will support more accurate SAC findings by the Board, and avoid piecemeal responses to the Motion to Strike.

For the foregoing reasons, AEP Texas requests that the Board extend the due date for AEP Texas' Reply to BNSF's Motion to Strike from September 29 to November 5, 2004. Counsel for AEP Texas has consulted with counsel for BNSF, and has been advised that BNSF opposes the requested extension.

Respectfully submitted,

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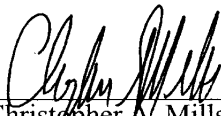
Dated: September 21, 2004

Attorneys & Practitioners

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of September, 2004, I caused a copy of the foregoing Motion to be served by hand delivery on counsel for BNSF, as follows:

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