

OMAHA PUBLIC POWER DISTRICT,

Complainant,

v.

UNION PACIFIC RAILROAD COMPANY,

Defendant.

CRAIG V. RICHARDSON
JAMES B. BOLES
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WHITNEY C. LARKIN
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1400 Douglas Street
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September 23, 2022

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

Union Pacific Railroad Company (UP) respectfully moves for an order compelling Omaha Public Power District (OPPD) to answer interrogatories served on August 11, 2022, and to respond to related requests for production of documents served on July 25, 2022, and August 11, 2022. The undersigned certifies that UP representatives conferred in good faith with OPPD representatives on September 16, 2022, in an attempt to obtain the discovery at issue without Board intervention. However, the parties were unable to resolve their differences regarding OPPD's answers to interrogatories within the 10 days permitted by 49 C.F.R. § 1114.31(a).¹

OPPD has objected to producing certain information, and in one case is withholding a document it previously agreed to produce, solely because of concerns about its confidentiality

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obligations to BNSF Railway Company (BNSF). The Board should enforce its well-established rule that such confidentiality concerns can be addressed by producing the requested information and designating it as “Highly Confidential” pursuant to the terms of the Protective Order issued in this proceeding.

A. Document Requests

1. UP Request for Production No. 1

UP Request for Production No. 1 requested production of the BNSF contract. *See* Ex. A, RFP No. 1. UP served its request on July 25, 2022. As the Board is aware, OPPD is attempting to challenge a UP switch charge applicable to the movement of coal by BNSF from the Powder River Basin to OPPD’s North Omaha Power Station (NOPS) in Omaha, Nebraska. BNSF moves the issue traffic to Omaha pursuant to a transportation contract with OPPD. The BNSF contract contains information relevant to UP defenses in this matter; namely, that the transportation at issue is governed by contract and that UP lacks market dominance over the issue traffic. The BNSF contract also likely contains other information relevant to any stand-alone cost (SAC) analysis, including information regarding the volume of traffic that would move on the stand-alone railroad (SARR).

OPPD does not dispute the BNSF contract’s relevance. However, OPPD has withheld production because the contract “requires the written agreement of BNSF before any of the contract’s terms and conditions can be disclosed to a third party.” Ex. B, p. 4. OPPD says it notified BNSF of UP’s discovery request on August 8, 2022—almost seven weeks ago. *See id.*

The Protective Order in this proceeding requires production of The BNSF contract under the circumstances—that is, UP requested production of the contract, OPPD agrees the contract is properly discoverable, and OPPD has provided BNSF a reasonable opportunity to object to production. Specifically, the Section 8 of the Protective Order states:

Each party is ordered to produce to the other party rail transportation contracts or other documents or information which, because of confidentiality provisions, cannot be produced without a Board order directing their production to the extent that (1) the other party has requested that the documents be produced in discovery, and (2) the parties agree that the requested documents would be properly discoverable in this proceeding but for the confidentiality provisions. Such documents shall be required to be produced only after the other party(ies) to a contract (or other document subject to a confidentiality provision) who are entitled to prior notice have been provided written notice and a reasonable opportunity to object to that production and obtain a ruling from the Board on that objection. Any documents or contracts produced pursuant to this Section 8 shall be treated as “HIGHLY CONFIDENTIAL” and/or “SSI” and shall otherwise be subject to the terms of the Protective Order.

Decision served Aug. 9, 2022, slip op. at 5. The Board should order OPPD to produce the BNSF contract without further delay.

2. UP Request for Production No. 27

UP Request for Production No. 27 seeks all documents relating to the competition or bidding between railroads that led to OPPD’s current contract with BNSF. *See* Ex. C, RFP No. 27. OPPD’s only non-boiler-plate objection was that the request is “duplicative of other requests propounded by UP.” Ex. D, Resp. to RFP No. 27. In the parties’ meet and confer session, OPPD acknowledged the request was not duplicative. However, OPPD raised a new objection: some responsive documents may include confidential information relating to the BNSF contract.

OPPD’s new objection does not justify withholding the requested documents. To the extent BNSF is contractually entitled to prior notice of production, OPPD provided the notice and is now required to produce the information pursuant to the Protective Order. To the extent OPPD is asserting confidentiality concerns not specifically based on the BNSF contract, Board precedent establishes that such concerns can be fully addressed by OPPD’s designation of the

information as “HIGHLY CONFIDENTIAL” under the Protective Order. *See, e.g., Arizona Elec. Power Coop. v. The Burlington N. & Santa Fe Ry.*, NOR 42058, slip op. at 5 (STB served Sept. 11, 2002) (“It is well settled that a protective order ensures that confidential, proprietary, or commercially sensitive information may be used solely for the involved proceeding and not for other purposes.”). The Board cannot allow a complainant to resist providing discovery to a defendant by asserting promises of confidentiality it voluntarily provided non-parties. If OPPD believes its confidentiality obligations to BNSF are more important than pursuing this case, it should dismiss its complaint. But UP’s ability to defend itself should not be handicapped by OPPD’s voluntary undertakings. The Board should order OPPD to answer UP Request for Production No. 27.

B. Interrogatories

OPPD also objected to answering certain UP interrogatories based solely or in large part on concerns about confidentiality obligations to BNSF. Those objections are equally baseless in light of the Protective Order and Board precedent.

1. UP Interrogatory No. 2

UP Interrogatory No. 2 requests certain information regarding coal shipped to NOPS from 2018 to the present. *See* Ex. C, Int. No. 2. OPPD’s only non-boilerplate objection was that some of the information requested should be in UP’s records. *See* Ex. D, Resp. to Int. No. 2. In the parties’ meet and confer session, UP agreed to address OPPD’s objection by modifying its request to exclude UP single-line traffic. OPPD responded by raising a new objection—that information requested in subparts (d)-(f) of UP Interrogatory No. 2 involve confidential information relating to the BNSF contract.

OPPD’s new objection does not justify withholding the requested information. As discussed above, to the extent BNSF is contractually entitled to prior notice of production, OPPD

provided the notice and is now required to produce the information pursuant to the Protective Order. To the extent OPPD is asserting confidentiality concerns not specifically based on its contract with BNSF, Board precedent establishes that such concerns can be fully addressed by OPPD's designation of the information as "HIGHLY CONFIDENTIAL" under the Protective Order. *See, e.g., Arizona Elec. Power Coop.*, slip op. at 5. The Board should order OPPD to answer UP Interrogatory No. 2, as modified to exclude UP single-line traffic.

2. UP Interrogatory No. 3

UP Interrogatory No. 3 requests the same information as Interrogatory No. 2, but with respect to shipments to OPPD's plant at Nebraska City, Nebraska. *See Ex. C, Int. No. 3*. In the parties' meet and confer session, OPPD raised the same, new "BNSF confidentiality" objection to this interrogatory that UP addressed in connection with UP Interrogatory No. 2. The Board should reject that objection for the reasons discussed above.

In its non-boilerplate written objections, OPPD objected to answering UP Interrogatory No. 3 for two reasons: (i) some of the requested information would also be in UP's possession, and (ii) the information involves coal moving to Nebraska City, not NOPS. *See Ex. D, Resp. to Int. No. 3*. In the parties' meet and confer session, UP addressed OPPD's first objection by modifying its request to exclude UP single-line traffic.

OPPD's second objection is not a valid basis for refusing to answer the interrogatory. The requested information regarding coal moving to OPPD's plant at Nebraska City is relevant to the volume of traffic that would move on the SARR. Nebraska City coal would represent a very large share of SARR traffic, if OPPD includes that coal in the SARR traffic group.

In addition, the information requested in UP Interrogatory No. 3 regarding rates and service terms for coal moving to OPPD's Nebraska City plant is relevant to market dominance issues in this case, including whether UP's voluntary agreement to open NOPS to reciprocal

switching or OPPD's ability to bundle volumes of the two plants in the bidding process means UP lacks market dominance over the transportation to which the challenged charge applies. *See* 49 U.S.C. § 10707. UP and BNSF can both serve Nebraska City, and UP understands that OPPD obtained UP and BNSF bids for Nebraska City and NOPS coal traffic in the same contracting process. The market dominance issues presented by this case are unusual, because no shipper (other than OPPD) has tried to challenge the level of a switch charge since the enactment of the ICC Termination Act of 1995, and OPPD may disagree with UP's view of market dominance issues, but UP is entitled to the discovery needed to pursue its defenses to liability. The Board should order OPPD to answer UP Interrogatory No. 3, as modified by the parties' agreement to exclude information about UP single-line traffic.

3. UP Interrogatory No. 4

UP Interrogatory No. 4 seeks information regarding market dominance by asking OPPD to identify and describe all offers made to, solicited by, or considered by OPPD at any time for the transportation of coal to NOPS, regardless of mode or carrier. *See* Ex. C, Int. No. 4. In the parties' meet and confer session, OPPD raised a new "BNSF confidentiality" objection to this interrogatory similar to the objection that UP addressed in connection with UP Interrogatory No. 2. OPPD said its requests for rate proposals contain language promising not to disclose information submitted in responses to such requests. The Board should reject OPPD's new objection for the reasons discussed above: OPPD can maintain the confidentiality of the requested information while complying with its discovery obligations by designating the information "HIGHLY CONFIDENTIAL" pursuant to the Protective Order.

In its non-boilerplate written objections, OPPD objected to answering UP Interrogatory No. 4 for two reasons: (i) the interrogatory contains no restriction on time, and (ii) UP would have some of the requested information in its files. *See* Ex. D, Resp. to Int. No. 4. In the parties'

meet and confer session, UP addressed the first objection by narrowing the time period to “2007 to the present”—the same time period OPPD used in its discovery requests relating to market dominance. *See* Ex. E, RFP Nos. 133 & 134. UP addressed the second objection by stating OPPD would not have to identify and describe information that was contained in documents exchanged by UP and OPPD.

OPPD asserted that even the narrowed time period was too expansive. OPPD also claimed the requested information is not relevant. The Board should reject OPPD’s relevance objection. UP’s request for information regarding offers for transportation of coal to OPPD seeks information directly bearing on the existence or absence of effective competition from other rail carriers or other mode of transportation for the transportation to which the challenged charge applies. *See* 49 U.S.C. § 10707. The Board should also reject OPPD’s objection to the time period. UP proposed the very same time period OPPD itself used in its dominance-related discovery requests to UP. The Board should order OPPD to answer UP Interrogatory No. 4, as modified to cover the period from 2007 to the present and to exclude information contained in documents exchanged by OPPD and UP.

II. Interrogatories Relating to the Costs of Owning and Maintaining Freight Cars (UP Interrogatories Nos. 7, 8 & 9)

OPPD has objected to providing information regarding costs to own and maintain freight cars. *UP Interrogatory No. 7* seeks information regarding ownership costs; *UP Interrogatory No. 8* seeks information regarding maintenance costs of the cars identified in response to *UP Interrogatory No. 7*, and *UP Interrogatory No. 9* seeks information regarding car unit-miles corresponding to the maintenance expenses identified in response to *UP Interrogatory No. 8*. *See* Ex. C, Int. Nos. 7, 8 & 9.

OPPD's provided boilerplate written objections. *See* Ex. D., Resp. to Int. Nos. 7, 8 & 9. In the parties' meet and confer session, OPPD argued the information was not relevant because UP does not pay car-related costs when it uses OPPD's cars to transport OPPD's coal.

OPPD's assertion regarding the relationship between car ownership and rates, to the extent it has any merit, entirely misses the point of the interrogatories at issue. Car ownership and maintenance costs are relevant in SAC cases because they are an element of SARR operating costs: the SARR, like UP, presumably will need to acquire and maintain at least some coal cars, so OPPD's costs of acquiring and maintaining coal cars is relevant. In addition, UP could use OPPD's actual lease rates and maintenance expenses as benchmarks against the freight car lease rates and maintenance expenses included by OPPD in its SARR for all car types. In fact, OPPD asked UP to produce essentially identical car ownership and maintenance cost information about UP-owned or leased freight cars used to in providing transportation service on the OPPD route. *See* Ex. E., RFP Nos. 47 & 51. OPPD's car ownership and maintenance costs are just as relevant to the issue of SARR operating costs as UP's car ownership and maintenance costs. In addition, OPPD's production burden will be much lighter than UP's, because OPPD almost certainly owns and leases fewer cars than UP. The Board should order OPPD to answer UP Interrogatories Nos. 7, 8 & 9.

III. Interrogatories Relating to OPPD's Electricity Generation Decisions and Fuel Supply Planning (UP Interrogatories Nos. 12, 13 & 14)

SARR traffic volumes play a central role in all SAC cases. They affect SARR revenues, operating expenses, and construction costs. In this case, assumptions regarding SARR traffic volumes, and specifically issue traffic volumes, will play an even more critical role than usual because *OPPD has publicly announced plans to curtail coal shipments to NOPS*.

In 2014 and 2016, OPPD’s Board of Directors adopted resolutions that directed the planned retirement of NOPS Units 1, 2, and 3, and the refueling of Units 4 and 5 from coal to natural gas only, by the end of 2023. *See* Ex. F, p. 1. NOPS Units 1, 2, and 3 were retired from coal operations in April of 2016, but they remain available for natural gas operations. *See* Ex. G, p. 3. Units 4 and 5 are equipped for both coal and natural gas firing. *See id.* OPPD’s planned to update Units 4 and 5 with new burners to aid with burning of natural gas and retire them from coal operations by December 31, 2023. *See id.*

In August 2022, the OPPD Board voted to extend the retirement of NOPS Units 1, 2, and 3 and delay the refueling of Units 4 and 5. *See* Ex. F, p. 2. The OPPD Board did not publically announce a new, specific deadline for retiring Units 4 and 5 from coal operations, indicating that operations would continue until certain conditions and milestones are met. *See* Ex. F, p. 11. At the same time, the OPPD Board indicated it would “[b]alance environmental impacts and reliability needs by exploring the possible options to minimize [NOPS] coal unit emissions if systems conditions allow.” *Id.* The “possible options” appear to include changing the coal/gas balance for Units 4 and 5, *see id.* (noting “Units 4-5 primarily operate on coal”), and promoting changes in customer demand, *see id.* (noting recommendation to “[e]xpand large customer demand response programs”).

UP’s discovery requests include a substantial number of interrogatories and document requests designed to obtain relevant information regarding future consumption of coal at NOPS, which relates directly to the projected volume of traffic that would be handled by the SARR. The parties are continuing to negotiate in good faith over UP’s document requests relating to projected SARR traffic. However, in the parties’ meet and confer session, OPPD indicated it was standing on its objections to UP Interrogatories Nos. 13 and 14, and would respond to UP

Interrogatory No. 12 only to the extent it seeks information relevant to the issue of future coal volumes at NOPS.

UP Interrogatory No. 12 asks OPPD to state, by non-coal generating source, the amount and cost of power generated by OPPD from non-coal sources since 2010 and projected to be generated in each year in the future for which OPPD has made projections. As described above, OPPD indicated it would respond to the extent the interrogatory seeks information relevant to issues of future coal volumes at NOPS. UP's interrogatory was intended to seek information directly relevant to such issues. As discussed above, OPPD's plans for future coal volumes at NOPS are highly uncertain, and OPPD's public documents suggest its plans may be influenced by OPPD's ability to generate power at NOPS and its other facilities from non-coal sources. UP's interrogatory seeks information about OPPD's past generation of power from non-coal sources, and the cost conditions that motivated OPPD's decisions, as a guide to its likely future behavior, and it seeks information regarding OPPD's current expectations (*i.e.* projections) for the same purpose. The Board should remove the uncertainty surrounding OPPD's position by ordering OPPD to answer UP Interrogatory No. 12.

UP Interrogatory No. 13 asks OPPD to explain its policies and procedures for determining whether and to what extent to generate or purchase electricity for use by its customers. OPPD responded with boilerplate objections the request was overbroad, burdensome, and irrelevant. However, UP's interrogatory is focused on a highly relevant issue: how will OPPD decide whether to generate electricity, and how much to generate by burning coal at NOPS, as compared to the alternative of purchasing electricity from other sources to minimize the coal emissions from continuing to burn coal in Units 4 and 5. In the parties' meet and confer session, OPPD suggested its policies and procedures relating to its long-term decision-making

might be relevant, but not its policies and procedures relating to its day-to-day decision-making. But both types of decision would affect the volume of coal shipped to NOPS during the SAC analysis period. In addition, OPPD did not explain why it would be unduly burdensome to explain its policies and procedures with respect to deciding whether to generate or purchase electricity. The Board should order OPPD to answer UP Interrogatory No. 13

UP Interrogatory No. 14 asks OPPD to explain its current process for fuel supply planning. UP's OPPD also responded to this interrogatory with boilerplate objections. But again, UP's interrogatory is focused on the relevant issue of OPPD's decision-making regarding the need for coal at NOPS—an issue that is particularly important given OPPD's apparent plans to reduce consumption of coal at NOPS. In the parties' meet and confer session, OPPD once again suggested drawing a distinction between long-term and short-term planning. But, again, both types of decision-making would affect the volume of coal shipped to NOPS, and simply explaining its policies should not be unduly burdensome for OPPD. The Board should order OPPD to answer UP Interrogatory No. 14.

Respectfully submitted,

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September 23, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 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

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

OMAHA PUBLIC POWER DISTRICT,

Complainant,

$$V.$$

NOR 42173

UNION PACIFIC RAILROAD COMPANY.

Defendant.

UNION PACIFIC RAILROAD COMPANY'S FIRST SET OF DISCOVERY REQUESTS TO COMPLAINANT

Pursuant to 49 C.F.R. § 1114.30, Union Pacific Railroad Company (“UP”) hereby requests that Omaha Public Power District (“OPPD”) produce documents responsive to the following requests to Michael L. Rosenthal at Covington & Burling LLP, One CityCenter, 850 Tenth Street, NW, Washington, D.C. 20001, as promptly as possible, and no later than August 10, 2022.

DEFINITIONS

1. “BNSF” means BNSF Railway Company.
2. “BNSF Contact” means the “new rail transportation contract with BNSF” identified in Paragraph 6 of the Complaint.
3. “Communication(s)” means any transmission or receipt of information by one or more persons and/or between two or more persons by means including but not limited to telephone conversations, letters, telecopies, electronic mail, text messages, written memoranda, and in-person conversations.
4. “Complaint” refers to the Complaint filed in the captioned docket by OPPD.

5. “Document(s)” means all types of documents that are subject to discovery under the Board’s rules at 49 C.F.R. § 1114.30(a)(1). “Document” includes every copy of a document that is not identical to the original or any other copy.

INSTRUCTIONS

1. These requests extend to any documents and information in the possession, custody, or control of OPPD, its present and former directors, officers, employees, attorneys, and any other agents or representatives.

2. Unless a different time period is specified, these requests cover the period from January 1, 2019, to the present.

3. If OPPD withholds documents on the basis of a claimed privilege or attorney work product, then for each such document, OPPD should provide the following information: the document’s date, type (*e.g.*, letter, memo, notes), author(s), addressee(s)/recipient(s), general subject matter, and the basis for withholding the document.

DOCUMENT REQUESTS

Request for Production No. 1

Produce the BNSF Contract.

Request for Production No. 2

Produce all Documents reflecting or consisting of Communications with BNSF relating to negotiation of the BNSF Contract.

Request for Production No. 3

Produce all Documents (other than the BNSF Contract) reflecting or consisting of agreements or understandings between BNSF and OPPD relating to (i) the BNSF Contract, (ii) the rate challenged in the Complaint, and/or (iii) OPPD reimbursement to BNSF for UP

charges to BNSF for handling coal between BNSF's Gibson Yard Interchange and OPPD's North Omaha Power Station.

Request for Production No. 4

Produce all bills of lading for transportation provided under (i) the BNSF Contract, and/or (ii) the rate challenged in the Complaint.

Request for Production No. 5

Produce all invoices for transportation provided under (i) the BNSF Contract, and/or (ii) the rate challenged in the Complaint.

Request for Production No. 6

Produce Documents sufficient to show "OPPD has paid 100% of the rate," as alleged in Paragraph 10 of the Complaint.

Request for Production No. 7

Produce all Documents reflecting or consisting of Communications relating to charges for transportation between BNSF's Gibson Yard and OPPD's North Omaha Power Station between (i) OPPD and BNSF, and/or (ii) OPPD and UP.

Request for Production No. 8

Produce all Documents reflecting or consisting of Communications relating to charges for transportation between origins in the Powder River Basin and OPPD's North Omaha Power Station between (i) OPPD and BNSF, and/or (ii) OPPD and UP.

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Attorneys for Union Pacific Railroad Company

July 25, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of July, 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

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Omaha Public Power District	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. NOR 42173
	)	
Union Pacific Railroad Company	)	
	)	
Defendant	)	
	)	

**RESPONSES AND OBJECTIONS TO
UNION PACIFIC’S FIRST SET OF DISCOVERY REQUESTS**

Pursuant to 49 C.F.R. Part 1114, Omaha Public Power District (“OPPD”) submits these written responses and objections to Union Pacific Railroad Company’s (“UP”) First Set of Discovery Requests to OPPD (“First Requests,” individually, “Request”).

GENERAL OBJECTIONS

The following General Objections apply to each of the First Requests and shall have the same force and effect as if set forth in full in response to each individually numbered Request.

1. OPPD objects to the First Requests and to each Definition, Instruction and Request contained therein to the extent they purport to impose upon OPPD burdens or duties that are greater than, or otherwise conflict with, the requirements or the permissible scope of discovery under 49 C.F.R. Part 1114, Subpart B, or under other Surface Transportation Board (“Board”) rules or precedents.

2. OPPD objects to the First Requests and to each Definition, Instruction and Request contained therein to the extent they purport to seek information and/or documents that are not relevant to the issues raised in the above-captioned proceeding.

3. OPPD objects to the First Requests and to each Definition, Instruction and Request contained therein to the extent that they seek information or documents protected from discovery by the attorney-client privilege, attorney work product doctrine, common interest, or any other applicable privilege, protection, immunity, doctrine, statute, regulation, agreement, or protective order. Any disclosure or production of such information or documents is inadvertent and should not be construed as a waiver. OPPD reserves all rights under applicable law to demand and/or require the return of all copies thereof and non-use by, or by any other person or entity in this or any other proceeding.

4. OPPD objects to the First Requests and to each Definition, Instruction and Request contained therein to the extent that they seek the production or identification of documents prepared in connection with, or information relating to, possible settlement or mediation of this or any other proceeding.

5. OPPD objects to the First Requests and to each Definition, Instruction and Request contained therein to the extent they call for information or documents that are confidential, proprietary, or commercially or competitively sensitive. OPPD will only provide such information or documents to UP subject to the Protective Order issued in this proceeding and all responses and documents will be treated in accordance with that Protective Order.

6. OPPD objects to the First Requests and to each Definition, Instruction and Request contained therein to the extent that they purport to seek documents or information not in OPPD's possession, custody or control.

7. OPPD objects to the First Requests and to each Definition, Instruction and Request

contained therein to the extent that they impose an undue burden on OPPD.

8. OPPD objects to the First Requests and to each Definition, Instruction and Request contained therein to the extent they purport to seek the production or identification of documents that are cumulative or duplicative of documents already in UP's possession, custody or control, or that are publicly available, or that are otherwise obtainable in a more convenient, less burdensome or less expensive manner than from OPPD.

9. OPPD objects to the First Requests and to each Definition, Instruction and Request contained therein as unduly burdensome and oppressive to the extent that they purport to require OPPD to conduct a special study or to undertake anything more than a reasonable search for responsive information. In responding to the First Requests, OPPD will conduct a reasonable search of those accessible files in its possession in which information responsive to the First Requests, as limited by OPPD's Objections, is likely to be located.

10. OPPD objects to the First Requests and to each Definition, Instruction and Request contained therein to the extent that they are unduly burdensome in failing to allow for a reasonable time for compliance.

11. OPPD reserves the right to redact non-responsive material from any document provided in response to the First Requests.

12. OPPD reserves the right to provide responsive materials on a rolling basis.

13. OPPD reserves the right to challenge the competency, relevance, materiality, or admissibility of, or to objects on any ground to, the use of information requested in the First Requests and in any responses the OPPD may provide thereto, in any subsequent proceeding, or further proceedings in this matter. To the extent that OPPD provides responsive information or documents, OPPD do not concede that such information is relevant, material, or admissible into evidence, and any such production or identification is not intended to waive any of the OPPD's

objections to any of the First Requests.

14. OPPD's Responses and Objections are based upon information presently known to it. OPPD reserves the right to rely upon facts, documents, or other evidence that it may develop or that may subsequently come to its attention; to assert additional objections; and to supplement or amend these responses at any time as this proceeding continues.

OBJECTIONS TO DEFINITIONS

1. OPPD object to UP's definition of "Communication(s)" as overly broad, unduly burdensome, vague, and ambiguous, and to the extent it includes text messages. OPPD also objects to the definition of Communication to the extent it includes items outside of OPPD's possession, custody, or control.

2. OPPD objects to UP's definition of Document as overly broad, unduly burdensome, vague, and ambiguous. OPPD also objects to the definition of Document to the extent it includes items outside of OPPD's possession, custody, or control. OPPD further objects to the definition of Document to the extent it seeks production of Documents other than the final version of a responsive Document.

OBJECTIONS TO DOCUMENT REQUESTS

Request for Production No. 1

Produce the BNSF Contract.

Response: In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request on the grounds that the BNSF Contract requires the written agreement of BNSF before any of the contract's terms and conditions can be disclosed to a third party. OPPD provided the required notice to BNSF on August 8, 2022, and OPPD is awaiting BNSF's response. Also, any production of all or part of the BNSF Contract in response to this Request would be

designated “Highly Confidential” pursuant to the Protective Order in this case. Further, the Protective Order contains other provisions that govern the production of the BNSF Contract.

Request for Production No. 2

Produce all Documents reflecting or consisting of Communications with BNSF relating to negotiation of the BNSF Contract.

Response: In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request on the grounds that it is vague and ambiguous, overly broad, unduly burdensome, and seeks information that is not relevant to the issues in this case. Subject to all such objections, OPPD will produce non-privileged documents responsive to this request to the extent they exist and are available from a reasonable search of OPPD’s files.

Request for Production No. 3

Produce all Documents (other than the BNSF Contract) reflecting or consisting of agreements or understandings between BNSF and OPPD relating to (i) the BNSF Contract, (ii) the rate challenged in the Complaint, and/or (iii) OPPD reimbursement to BNSF for UP charges to BNSF for handling coal between BNSF’s Gibson Yard Interchange and OPPD’s North Omaha Power Station.

Response: In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request on the grounds that it is vague and ambiguous, overly broad, and unduly burdensome. Subject to all such objections, OPPD will produce non-privileged documents responsive to this request to the extent they exist and are available from a reasonable search of OPPD’s files.

Request for Production No. 4

Produce all bills of lading for transportation provided under (i) the BNSF Contract, and/or (ii) the rate challenged in the Complaint.

Response: In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request on the grounds that it is vague and ambiguous, overly broad, and unduly burdensome. This Request is overbroad and unduly burdensome because it seeks

information related to transportation services provided by BNSF that do not relate to the delivery of coal to OPPD's North Omaha Power Station. OPPD also objects to this Request because the rate challenged in the Complaint is established by UP for transportation provided by UP, not BNSF. Subject to all such objections, OPPD will produce non-privileged documents responsive to this request to the extent they exist and are available from a reasonable search of OPPD's files.

Request for Production No. 5

Produce all invoices for transportation provided under (i) the BNSF Contract, and/or (ii) the rate challenged in the Complaint.

Response: In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request on the grounds that it is vague and ambiguous, overly broad, and unduly burdensome. This Request is overbroad and unduly burdensome because it seeks information related to transportation services provided by BNSF that do not relate to the delivery of coal to OPPD's North Omaha Power Station. OPPD also objects to this Request because the rate challenged in the Complaint is established by UP for transportation provided by UP, not BNSF. Subject to all such objections, OPPD will produce non-privileged documents responsive to this request to the extent they exist and are available from a reasonable search of OPPD's files.

Request for Production No. 6

Produce Documents sufficient to show "OPPD has paid 100% of the rate," as alleged in Paragraph 10 of the Complaint.

Response: In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request on the grounds that it is vague and ambiguous, overly broad, and unduly burdensome. OPPD also objects to this request because some or all of the information responsive to this request is in the possession of UP. Subject to all such objections, OPPD will

produce non-privileged documents responsive to this request to the extent they exist and are available from a reasonable search of OPPD's files.

Request for Production No. 7

Produce all Documents reflecting or consisting of Communications relating to charges for transportation between BNSF's Gibson Yard and OPPD's North Omaha Power Station between (i) OPPD and BNSF, and/or (ii) OPPD and UP.

Response: In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request on the grounds that it is vague and ambiguous, overly broad, and unduly burdensome. OPPD also objects to this Request because the information related to Communications between OPPD and UP is in the possession of UP. Subject to all such objections, OPPD will produce non-privileged documents responsive to this request to the extent they exist and are available from a reasonable search of OPPD's files.

Request for Production No. 8

Produce all Documents reflecting or consisting of Communications relating to charges for transportation between origins in the Powder River Basin and OPPD's North Omaha Power Station between (i) OPPD and BNSF, and/or (ii) OPPD and UP.

Response: In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request on the grounds that it is vague and ambiguous, overly broad, unduly burdensome, and seeks information that is not relevant to the issues in this case. Subject to all such objections, OPPD will produce non-privileged documents responsive to this request to the extent they exist and are available from a reasonable search of OPPD's files.

Respectfully submitted,

A handwritten signature in blue ink that reads "Thomas W. Wilcox".

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Attorneys for Omaha Public Power District

August 10, 2022

BEFORE THE
SURFACE TRANSPORTATION BOARD

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

**UNION PACIFIC RAILROAD COMPANY’S SECOND SET OF
DISCOVERY REQUESTS TO COMPLAINANT**

Pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, Union Pacific Railroad Company (“UP”) hereby requests that Omaha Public Power District (“OPPD”) respond to the following document requests and interrogatories (collectively, “requests”), in accordance with the definitions and instructions set forth below, within thirty days of the date of these requests.

Responses should be delivered to Michael L. Rosenthal at Covington & Burling LLP, One CityCenter, 850 Tenth Street, NW, Washington, D.C. 20001.

DEFINITIONS AND INSTRUCTIONS

A. “OPPD” or “you” or “your” means Omaha Public Power District, including its officers, directors, agents, employees, and representatives, and any predecessor corporation, past or present subsidiary or affiliated corporation, and the officers, directors, agents, employees, and representatives of any such predecessor, subsidiary, or affiliate.

B. “NOPS” means OPPD’s North Omaha Power Station, located at Omaha, Nebraska.

C. “UP” means Union Pacific Railroad Company, including its officers, directors, agents, employees, and representatives, and any predecessor corporation, past or present subsidiary or affiliated corporation, and the officers, directors, agents, employees, and representatives of any such predecessor, subsidiary, or affiliate.

D. “BNSF” means BNSF Railway Company, including its officers, directors, agents, employees, and representatives, and any predecessor corporation, past or present subsidiary or affiliated corporation, and the officers, directors, agents, employees, and representatives of any such predecessor, subsidiary, or affiliate.

E. “Circular” means “UP Reciprocal Switching Circular UP 8005 F,” a copy of which is attached as Exhibit A to the Complaint.

F. “Communication” means any transmission or receipt of information of any kind by one or more persons and/or between two or more persons by means including but not limited to telephone conversations, letters, telecopies, electronic mail, text messages, written memoranda, and in-person conversations.

G. “Complaint” means the Complaint filed by OPPD with the Surface Transportation Board in STB Docket Number NOR 42173 on July 22, 2022.

H. “Destination” means OPPD’s North Omaha Power Station (“NOPS”) located at Omaha, Nebraska.

I. “Document(s)” means all types of documents that are subject to discovery under the Surface Transportation Board’s rules at 49 C.F.R. § 1114.30(a)(1). “Document” includes every copy of a document that is not identical to the original or any other copy.

J. “Identify,” when used with respect to a document, means to: (1) state the nature of the document (*e.g.*, letter, memoranda, etc.); (2) state the author, date, addressees and/or

recipients, and title of the document; and (3) provide a brief summary of the contents of the document.

K. “Identify,” when used with respect to a natural person, means to state the person’s full name, job title, and home or business address.

L. “Identify,” when used with respect to information, means to list or produce documents containing the specified information.

M. “Person” means any natural person or any other entity (including without limitation partnerships, associations, cooperatives, proprietorships, political subdivisions, joint ventures, and corporations).

N. “PRB” means the Powder River Basin of Wyoming.

O. Unless a different time period is specified, these requests cover the period from January 1, 2019, to the present.

P. If OPPD for any reason (including assertion of privilege) withholds documents or information responsive to any of these requests, it should state the specific factual and legal basis for doing so and produce documents or information for any part of the request that is not alleged to be objectionable or protected.

Q. If documents responsive to these requests have been destroyed since the action was initiated, OPPD shall so state.

R. These requests are continuing in character so as to require OPPD to supplement in accordance with 49 C.F.R. § 1114.29.

S. These requests seek documents in the possession, custody, or control of OPPD, including documents of OPPD’s agents, employees, representatives, and consultants retained by OPPD for purposes of this action.

T. All documents should be produced or made available for inspection in the form in which they are retained by OPPD in their usual course of business, unless otherwise agreed by UP and OPPD.

U. Please organize or number the documents produced in such a manner that UP may readily determine which documents are being produced in response to each specific document request. If no document is produced in response to any specified request, please so indicate in the response.

V. In these request, the conjunctive shall include the disjunctive and vice versa, the singular shall include the plural and vice versa, “all” shall include “any” and vice versa, and “each” shall include “every” and vice versa, all to the end that each request shall be construed to cover the broadest scope of information. Requests for agreements or contracts shall include requests for all amendments, supplements, attachments, exhibits, and schedules to such agreements or contracts.

DOCUMENT REQUESTS

Request for Production No. 9: All current agreements that relate to the procurement by OPPD of coal for use at Destination.

Request for Production No. 10: All documents reflecting or consisting of communications concerning the procurement of coal for use at Destination during 2021 and beyond.

Request for Production No. 11: All documents relating to projections of, or plans or potential plans for, OPPD’s coal procurement for Destination during 2021 and beyond.

Request for Production No. 12: All documents relating to projections, forecasts or estimates of the demand for coal originating in the PRB, the production of such coal, the price of

such coal, and/or the cost of transporting such coal, including but not limited to any such projections, forecasts, or estimates that were prepared by or contributed to by any witness who will present evidence for OPPD in this case.

Request for Production No. 13: All analyses, projections, forecasts, or estimates of future electricity generation, purchases, or sales at Destination and any other electric generating facility that OPPD includes in its stand-alone traffic network for 2021 and beyond.

Request for Production No. 14: All documents relating to the coal-burning capacity, capacity utilization, or capacity factor of Destination, including engineering studies or analyses, studies or discussions of the factors contributing to the capacity utilization or capacity factor of Destination in particular years, and projections of capacity and capacity utilization in future years.

Request for Production No. 15: All documents relating to the historical, present, and future electricity generating capacity, capacity utilization, or capacity factor of Destination and any other electric generating facility that OPPD includes in its stand-alone traffic network, as well as the actual power generation and capacity utilization of those facilities.

Request for Production No. 16: Documents sufficient to explain how OPPD measures capacity utilization or the capacity factor for Destination or any other electric generating facility that OPPD includes in its stand-alone traffic network.

Request for Production No. 17: Documents sufficient to show the average and maximum capacity utilization or capacity factor for each generating unit of whatever type at Destination during each of the last five years.

Request for Production No. 18: Documents sufficient to describe the volume of coal procured by OPPD for Destination – from any mine and in total – during 2018, 2019, and 2020.

Request for Production No. 19: Documents sufficient to describe the volume of coal consumed at Destination – from any mine and in total – during 2018, 2019, and 2020.

Request for Production No. 20: All documents, regardless of date, relating to the economics or feasibility of building or using lignite-fired, coal-fired, natural gas-supplied, oil-supplied, solar, wind, or biomass electric generating facilities.

Request for Production No. 21: All documents, regardless of date, relating to the current or future ability to generate electricity at Destination or other facilities owned or to be constructed by OPPD using lignite, natural gas, oil, solar, wind, biomass, or other types of generators, including but not limited to engineering studies, forecasts, projections, or estimates.

Request for Production No. 22: All documents, regardless of date, regarding retirement of units at NOPS and/or conversion of units at NOPS from coal to natural gas.

Request for Production No. 23: All documents discussing or analyzing the impact of environmental regulations (existing or anticipated) on the quantity of or demand for electricity generation, including both coal-fired and gas-fired electricity generation, at Destination or any other electric generating facility that OPPD includes in its stand-alone traffic network.

Request for Production No. 24: All documents discussing or analyzing the impact of congestion or other limitations on transmission capacity (existing or anticipated) on the quantity of or supply of electricity generation, including both coal-fired and gas-fired electricity generation, at Destination or any other electric generating facility that OPPD includes in its stand-alone traffic network.

Request for Production No. 25: All documents discussing or analyzing the impact of the current economic market on the quantity of or demand for electricity generation, including

both coal-fired and gas-fired electricity generation) at Destination or any other electric generating facility that OPPD includes in its stand-alone traffic network.

Request for Production No. 26: All current agreements (with any amendments) that relate to the transportation of coal to Destination by a non-rail carrier or a rail carrier other than UP.

Request for Production No. 27: All documents relating to the competition or bidding between railroads that led to OPPD's current contract with BNSF.

Request for Production No. 28: All documents, regardless of date, that refer to whether OPPD used or considered using truck, water carrier, a conveyer belt, or other non-rail mode to ship coal to Destination.

Request for Production No. 29: All documents, regardless of date, describing, discussing or relating to use, feasibility, construction, or financing for facilities to permit delivery of coal by truck, water carrier, conveyer belt, or other non-rail mode to Destination.

Request for Production No. 30: All documents (other than routine transactional documents) discussing or relating to or consisting of communications between OPPD and any railroad other than UP or any non-rail carrier concerning transportation of coal to Destination.

Request for Production No. 31: All documents (other than routine transactional documents) discussing or relating to or consisting of communications between OPPD and any supplier of coal concerning transportation of coal to Destination.

Request for Production No. 32: All documents (other than routine transactional documents) describing, discussing or relating to the rail service to Destination provided by UP, including but not limited to documents that describe, discuss, analyze, or evaluate: (i) the rail service or possible changes to it; (ii) the size of trains used or to be used; (iii) the number and

type of cars per train; (iv) the routing used or to be used; and (v) the weight of coal per car or train.

Request for Production No. 33: All documents (other than routine transactional documents) describing, discussing or relating to the rail service to Destination provided by BNSF, including but not limited to documents that describe, discuss, analyze, or evaluate: (i) the rail service or possible changes to it; (ii) the size of trains used or to be used; (iii) the number and type of cars per train; (iv) the routing used or to be used; and (v) the weight of coal per car or train.

Request for Production No. 34: All documents (other than routine transactional documents) describing, discussing or relating to rates or potential rates for the transportation of coal regardless of mode to Destination, including all documents relating to refunds, discounts, concessions, or allowances in connection with the transportation, delivery, loading or unloading of coal.

Request for Production No. 35: All studies, reports, analyses or other documents that compare the cost of transporting coal to Destination to the cost of transporting coal to any other coal-fired electric generating facility.

Request for Production No. 36: All documents, regardless of date, describing, discussing, or relating to rail access or possible rail access to Destination by a company other than UP through a build-in, a build-out, purchase of trackage rights, transportation in conjunction with a non-rail mode, or any other means.

Request for Production No. 37: All documents constituting, describing, or relating to forecasts, projections, or estimates of future annual coal traffic volumes or revenues (in total or

by receiver) for all coal traffic that used or could use any portion of the UP lines replicated by the stand alone railroad posited by OPPD for purposes of this case.

Request for Production No. 38: To the extent that OPPD intends to include non-coal traffic in its stand-alone traffic group, all documents constituting, describing, or relating to forecasts, projections, or estimates of future annual non-coal traffic volumes or revenues (in total or by receiver) for all non-coal traffic that used or could use any portion of the UP lines replicated by the stand alone railroad posited by OPPD for purposes of this case.

Request for Production No. 39: Documents, regardless of date, sufficient to describe the physical layout of Destination, including but not limited to the following: (i) maps of the facility; (ii) documents that describe all facilities that handle loaded and unloaded rail cars, including facilities used to inspect, maintain, and repair rail cars; (iii) documents that identify the total mileage and configuration of the rail tracks at Destination; and (iv) documents that describe the facilities used to unload coal.

Request for Production No. 40: Documents, regardless of date, sufficient to describe the physical layout of any OPPD-owned shops used to service rail cars used by OPPD, including but not limited to the following: (i) maps of the facility; (ii) documents that describe all facilities that handle rail cars, including facilities used to inspect, maintain, repair, and store rail cars; and (iii) documents that identify the total mileage and configuration of the rail tracks at the facilities.

Request for Production No. 41: All documents relating to the development and submission of any power supply or capacity plans submitted to any state or local governmental entity.

Request for Production No. 42: All documents relating to the anticipated life of the facilities at Destination, including but not limited to: (i) documents relating to plans to retire

units at Destination; (ii) documents relating to the useful life of the boilers at the facility; (iii) studies or analyses of the impact of environmental regulations, including but not limited to regulation of carbon emissions, on the useful life of the facility; (iv) studies or analyses of possible expenditures or investments needed to maintain operations at the facility; (v) engineering studies relating to future operations at the facility.

Request for Production No. 43: All documents relating to analyses or evaluations of the challenged switch charge.

Request for Production No. 44: All documents relating to payments made to any person other than UP for the fueling and inspection of trains to Destination, the handling or switching of coal cars at Destination, or the loading, unloading, or transloading of coal for use at Destination.

Request for Production No. 45: All documents (excluding routine transactional documents), regardless of date, relating to rail cars currently owned or leased by OPPD or relating to negotiations with prospective vendors or lessors of rail cars to OPPD for the possible future purchase or lease of railcars, including but not limited to the following: (i) all documents relating to the decision to acquire rail cars and the reasons those cars were acquired; (ii) internal analyses or evaluations of the possible cost of such rail cars; (iii) correspondence with the possible suppliers of such rail cars; (iv) documents describing or discussing Complainant's plans or business strategy with respect to the possible use of such rail cars; (v) documents describing or discussing the maintenance and storage of such rail cars; and (vi) documents describing or discussing the costs of repairing, inspecting, maintaining, and operating such rail cars.

Request for Production No. 46: All documents consisting of rail car repair, inspection, or maintenance agreements with outside contractors in effect during all or any portion of each

year from 2018 to the present, and documents providing (a) the amount paid for each car or by car or by car type total and broken down by each service performed under the agreement, and (b) the number of car-miles corresponding to the amounts referenced above.

Request for Production No. 47: All documents relating to the cycle time for each train to Destination, including but not limited to documents containing information on the date of release from the mine, date of delivery at Destination, loading time, unloading time, number of cars, number of bad-order cars, and number of tons.

Request for Production No. 48: All documents relating to train operations between mine origins and Destination and train operations at Destination.

Request for Production No. 49: All documents relating to actual or anticipated plant outages at Destination, whether for routine maintenance or any other reason, including but not limited to documents that show the planned and actual time, duration, and cause of each plant outage, curtailment, or interruption.

Request for Production No. 50: All documents reflecting OPPD's payments of the challenged charge to UP.

Request for Production No. 51: Documents, regardless of date, sufficient to describe, identify, or depict the current form of organization and governance structure of OPPD, including member-owner cooperatives, divisions, units, departments, committees, boards, and working groups.

Request for Production No. 52: All quarterly and annual financial statements and annual reports, including attachments and exhibits.

Request for Production No. 53: All reports provided to OPPD's stakeholders.

Request for Production No. 54: All your RUS Form 12 reports, EIA Form 759, 860, and 861 reports, FERC Form 423 and 580 reports, and responses to FERC queries under Docket No. IN79-6, including all attachments and exhibits.

Request for Production No. 55: All correspondence, reports, comments, or other documents submitted to any federal, state or local public or governmental entity relating to the transportation of coal to OPPD, the cost of such transportation, or plans for future coal transportation.

Request for Production No. 56: Each Integrated Resource Plan or similar report or study prepared by, for or about OPPD, including supporting materials.

Request for Production No. 57: All documents, regardless of date, relied upon or referenced in your responses to the interrogatories that appear below.

INTERROGATORIES

Interrogatory No. 1: Identify all persons other than railroad employees who have provided any service related to the transportation of coal for use at Destination, including fueling and inspection of trains, switching, handling, loading, unloading, or storage of rail cars, and maintenance, inspection, and repair of rail cars, describe the service provided, when that service was provided, and, if the person is affiliated with OPPD, the nature of that affiliation.

Interrogatory No. 2: For any coal shipped to Destination from 2018 to the present, identify for each shipment:

- a) the date of the shipment;
- b) every carrier involved in the transportation;
- c) the route used;
- d) the total dollar amount of payments made to each carrier involved in the transportation;

- e) the rate or rates in effect;
- f) the number of cars and net tons of coal.

Interrogatory No. 3: For any coal shipped to OPPD's Nebraska City plant from 2018 to the present, identify for each shipment:

- a) the date of the shipment;
- b) every carrier involved in the transportation;
- c) the route used;
- d) the total dollar amount of payments made to each carrier involved in the transportation;
- e) the rate or rates in effect;
- f) the number of cars and net tons of coal.

Interrogatory No. 4: Identify and describe all offers made to, solicited by, or considered by OPPD at any time for the transportation of coal to Destination, regardless of mode or carrier.

Interrogatory No. 5: Identify and describe any studies, analyses, or communications relating to the possibility that OPPD would acquire, lease, build-in or build-out to, or obtain direct rail access to Destination by a rail carrier other than UP; or that OPPD would obtain coal transportation to Destination by truck over any portion of the route of movement from the mine.

Interrogatory No. 6: State OPPD's projections, forecasts or estimates for each of the following for each year through 2035 (and for any other time periods for which projections or forecasts have been made by OPPD or for OPPD):

- a) coal demand, inventory, and usage by Destination;
- b) shipments from PRB mines to Destination;
- c) electric generating output for each of the generating units at Destination, separately for each coal-fired and gas-fired unit.

Interrogatory No. 7: For each rail car owned or leased by OPPD, and for each of the calendar years 2018 to the present, identify the following;

- a) The owner or lessee of the car;
- b) The location(s) from which the cars are assigned;
- c) Car initial and number;
- d) Source of car;
- e) Car model or type;
- f) Tare weight;
- g) Date of purchase or lease;
- h) Original cost plus additions and betterments;
- i) Description of financing vehicle (e.g., equipment trust)
- j) Debt rate as a percent;
- k) Finance terms (in years);
- l) Annual depreciation;
- m) Accrued depreciation;
- n) If leased, whether capital or operating lease;
- o) If capital lease, the capitalized value of the lease by car or car group. If group of cars, identify the number (by initial and number) and aggregate dollars;
- p) If operating lease, the quarterly, semi-annual, or annual lease payment by car or car group covering the term of the lease. If a group of cars, identify the number (by initial and number) and aggregate dollars;
- q) The movement history of each car, including location, miles travelled between stations (loaded and empty), and the time and date of arrival at each station;
- r) The history (on a year-to-year basis) of mileage allowance payments or other compensation received by OPPD (or other owner or lessor) for the use of each car.

Interrogatory No. 8: For each of the cars identified in response to Interrogatory No. 7, identify maintenance and/or repair expenses by individual car initial and number (owned and leased), incurred by OPPD for each of the calendar years 2018 to the present.

Interrogatory No. 9: For each of the cars identified in response to Interrogatory No. 7, identify the total car unit-miles corresponding to the maintenance and repair expenses identified in Interrogatory No. 8 (*i.e.*, by individual car initial and number, or car type or car series) for each of calendar years 2018 to the present.

Interrogatory No. 10: For each projection, forecast, or estimate produced in response to a Request for Production, identify and describe in detail the methodology used to develop or prepare it, including, but not limited to, the assumptions and sources of information used.

Interrogatory No. 11: Identify each local, state, or federal proceeding since January 1, 2018 in which OPPD has been a party regarding procurement or transportation of coal to one of its electric generating facilities or regarding electric power generation at one of those facilities.

Interrogatory No. 12: State, by non-coal generation source, the amount of power generated by OPPD from non-coal sources in each year since 2010 and projected to be generated in each year in the future for which OPPD has made projections, and the cost of such power.

Interrogatory No. 13: Explain OPPD's current policies and procedures for determining whether and to what extent to generate or purchase electricity for use by its customers.

Interrogatory No. 14: Explain OPPD's current process for fuel supply planning.

Interrogatory No. 15: Explain OPPD's current planning process for making coal transportation arrangements.

Interrogatory No. 16: Identify the three present or former employees of OPPD who are most familiar with the following matters:

- a) The competition or bidding for and negotiation of OPPD's current contract with BNSF;
- b) The accounting records relating to OPPD's payments to BNSF under said contract;
- c) The computation and verification of such payments
- d) The physical movement of coal trains to NOPS;
- e) The effect of the challenged switch charge on the rate charged by BNSF under BNSF's current contract with OPPD;
- f) Plans to retire units at NOPS;
- g) Plans to convert units at NOPS to natural gas.

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Attorneys for Union Pacific Railroad Company

August 11, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 11th 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

Request contained therein to the extent they purport to seek information and/or documents that are not relevant to the issues raised in the above-captioned proceeding.

3. OPPD objects to the Second Requests and to each Definition, Instruction and Request contained therein to the extent that they seek information or documents protected from discovery by the attorney-client privilege, attorney work product doctrine, common interest, or any other applicable privilege, protection, immunity, doctrine, statute, regulation, agreement, or protective order. Any disclosure or production of such information or documents is inadvertent and should not be construed as a waiver. OPPD reserves all rights under applicable law to demand and/or require the return of all copies thereof and non-use by, or by any other person or entity in this or any other proceeding.

4. OPPD objects to the Second Requests and to each Definition, Instruction and Request contained therein to the extent that they seek the production or identification of documents prepared in connection with, or information relating to, possible settlement or mediation of this or any other proceeding.

5. OPPD objects to the Second Requests and to each Definition, Instruction and Request contained therein to the extent they call for information or documents that are confidential, proprietary, or commercially or competitively sensitive. OPPD will only provide such information or documents to UP subject to the Protective Order issued in this proceeding and all responses and documents will be treated in accordance with that Protective Order.

6. OPPD objects to the Second Requests and to each Definition, Instruction and Request contained therein to the extent that they purport to seek documents or information not in OPPD's possession, custody or control.

7. OPPD objects to the Second Requests and to each Definition, Instruction and Request contained therein to the extent that they impose an undue burden on OPPD.

8. OPPD objects to the Second Requests and to each Definition, Instruction and Request contained therein to the extent they purport to seek the production or identification of documents that are cumulative or duplicative of documents already in UP's possession, custody or control, or that are publicly available, or that are otherwise obtainable in a more convenient, less burdensome or less expensive manner than from OPPD.

9. OPPD objects to the Second Requests and to each Definition, Instruction and Request contained therein as unduly burdensome and oppressive to the extent that they purport to require OPPD to conduct a special study or to undertake anything more than a reasonable search for responsive information. In responding to the Second Requests, OPPD will conduct a reasonable search of those accessible files in its possession in which information responsive to the Second Requests, as limited by OPPD's Objections, is likely to be located.

10. OPPD objects to the Second Requests and to each Definition, Instruction and Request contained therein to the extent that they are unduly burdensome in failing to allow for a reasonable time for compliance.

11. OPPD reserves the right to redact non-responsive material from any document provided in response to the Second Requests.

12. OPPD reserves the right to provide responsive materials on a rolling basis.

13. OPPD reserves the right to challenge the competency, relevance, materiality, or admissibility of, or to objects on any ground to, the use of information requested in the Second Requests and in any responses the OPPD may provide thereto, in any subsequent proceeding, or further proceedings in this matter. To the extent that OPPD provides responsive information or documents, OPPD do not concede that such information is relevant, material, or admissible into evidence, and any such production or identification is not intended to waive any of the OPPD's objections to any of the Second Requests.

14. OPPD's Responses and Objections are based upon information presently known to it. OPPD reserves the right to rely upon facts, documents, or other evidence that it may develop or that may subsequently come to its attention; to assert additional objections; and to supplement or amend these responses at any time as this proceeding continues.

OBJECTIONS TO DEFINITIONS

1. OPPD object to UP's definition of "Communication(s)" as overly broad, unduly burdensome, vague, and ambiguous, and to the extent it includes text messages. OPPD also objects to the definition of Communication to the extent it includes items outside of OPPD's possession, custody, or control.

2. OPPD objects to UP's definition of "Document" as overly broad, unduly burdensome, vague, and ambiguous. OPPD also objects to the definition of Document to the extent it includes items outside of OPPD's possession, custody, or control. OPPD further objects to the definition of Document to the extent it seeks production of Documents other than the final version of a responsive Documents.

DOCUMENT REQUESTS

Request for Production No. 9: All current agreements that relate to the procurement by OPPD of coal for use at Destination.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the

reasonableness of the rate OPPD has challenged.

Request for Production No. 10: All documents reflecting or consisting of communications concerning the procurement of coal for use at Destination during 2021 and beyond.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Request for Production No. 11: All documents relating to projections of, or plans or potential plans for, OPPD's coal procurement for Destination during 2021 and beyond.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Request for Production No. 12: All documents relating to projections, forecasts or estimates of the demand for coal originating in the PRB, the production of such coal, the price of such coal, and/or the cost of transporting such coal, including but not limited to any such projections, forecasts, or estimates that were prepared by or contributed to by any witness who will present evidence for OPPD in this case.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Request for Production No. 13: All analyses, projections, forecasts, or estimates of future electricity generation, purchases, or sales at Destination and any other electric generating facility that OPPD includes in its stand-alone traffic network for 2021 and beyond.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. OPPD also objects because this Request prematurely and inappropriately requires OPPD to disclose its litigation position before the submission of opening evidence. The request is also overbroad in seeking information that is not related to the North Omaha Power Station.

Request for Production No. 14: All documents relating to the coal-burning capacity, capacity utilization, or capacity factor of Destination, including engineering studies or analyses, studies or discussions of the factors contributing to the capacity utilization or capacity factor of Destination in particular years, and projections of capacity and capacity utilization in future years.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Request for Production No. 15: All documents relating to the historical, present, and future electricity generating capacity, capacity utilization, or capacity factor of Destination and any other electric generating facility that OPPD includes in its stand-alone traffic network, as well as the actual power generation and capacity utilization of those facilities.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. OPPD also objects because this Request prematurely and inappropriately requires OPPD to disclose its litigation position before the submission of opening evidence. The request is also overbroad in seeking information that is not related to the North Omaha Power Station.

Request for Production No. 16: Documents sufficient to explain how OPPD measures capacity utilization or the capacity factor for Destination or any other electric generating facility that OPPD includes in its stand-alone traffic network.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD

objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. OPPD also objects because this Request prematurely and inappropriately requires OPPD to disclose its litigation position before the submission of opening evidence. The request is also vague and ambiguous as it could be interpreted as requesting multiple categories of documents, thus requiring the responding party to guess at what is being requested. The request is also overbroad in seeking information that is not related to the North Omaha Power Station.

Re quest for Production No. 17: Documents sufficient to show the average and maximum capacity utilization or capacity factor for each generating unit of whatever type at Destination during each of the last five years.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Re quest for Production No. 18: Documents sufficient to describe the volume of coal procured by OPPD for Destination – from any mine and in total – during 2018, 2019, and 2020.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that

is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Re quest for Production No. 19: Documents sufficient to describe the volume of coal consumed at Destination – from any mine and in total – during 2018, 2019, and 2020.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Request for Production No. 20: All documents, regardless of date, relating to the economics or feasibility of building or using lignite-fired, coal-fired, natural gas-supplied, oil-supplied, solar, wind, or biomass electric generating facilities.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking information without a reasonable time period.

Request for Production No. 21: All documents, regardless of date, relating to the current or future ability to generate electricity at Destination or other facilities owned or to be

constructed by OPPD using lignite, natural gas, oil, solar, wind, biomass, or other types of generators, including but not limited to engineering studies, forecasts, projections, or estimates.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 22: All documents, regardless of date, regarding retirement of units at NOPS and/or conversion of units at NOPS from coal to natural gas.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking information without a reasonable time period.

Request for Production No. 23: All documents discussing or analyzing the impact of environmental regulations (existing or anticipated) on the quantity of or demand for electricity generation, including both coal-fired and gas-fired electricity generation, at Destination or any other electric generating facility that OPPD includes in its stand-alone traffic network.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. OPPD also objects because this Request prematurely and inappropriately requires OPPD to disclose its litigation position before the submission of opening evidence. The request is also overbroad in seeking information that is not related to the North Omaha Power Station.

Request for Production No. 24: All documents discussing or analyzing the impact of congestion or other limitations on transmission capacity (existing or anticipated) on the quantity of or supply of electricity generation, including both coal-fired and gas-fired electricity generation, at Destination or any other electric generating facility that OPPD includes in its stand-alone traffic network.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. OPPD also objects because this Request prematurely and inappropriately requires OPPD to disclose its litigation position before the submission of opening evidence. The request is also overbroad in seeking information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 25: All documents discussing or analyzing the impact of the current economic market on the quantity of or demand for electricity generation, including both coal-fired and gas-fired electricity generation) at Destination or any other electric generating facility that OPPD includes in its stand-alone traffic network.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. OPPD also objects because this Request prematurely and inappropriately requires OPPD to disclose its litigation position before the submission of opening evidence. The request is also overbroad in seeking information that is not related to the North Omaha Power Station.

Request for Production No. 26: All current agreements (with any amendments) that relate to the transportation of coal to Destination by a non-rail carrier or a rail carrier other than UP.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is duplicative of other discovery requests propounded by UP.

Request for Production No. 27: All documents relating to the competition or bidding between railroads that led to OPPD's current contract with BNSF.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD

objects to this Request because it is duplicative of other discovery requests propounded by UP.

Request for Production No. 28: All documents, regardless of date, that refer to whether OPPD used or considered using truck, water carrier, a conveyer belt, or other non-rail mode to ship coal to Destination.

Response:

The request is also overbroad in seeking information without a reasonable time period. Subject to the General Objections and Objections to Definitions set forth above, OPPD will conduct a reasonable search for non-privileged documents responsive to this request dated after January 1, 2019, if any.

Request for Production No. 29: All documents, regardless of date, describing, discussing or relating to use, feasibility, construction, or financing for facilities to permit delivery of coal by truck, water carrier, conveyer belt, or other non-rail mode to Destination.

Response:

The request is also overbroad in seeking information without a reasonable time period. Subject to the General Objections and Objections to Definitions set forth above, OPPD will conduct a reasonable search for non-privileged documents responsive to this request dated after January 1, 2019, if any.

Request for Production No. 30: All documents (other than routine transactional documents) discussing or relating to or consisting of communications between OPPD and any railroad other than UP or any non-rail carrier concerning transportation of coal to Destination.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is duplicative of other discovery requests propounded by UP.

OPPD also objects to this request because it is overbroad and unduly burdensome. The request is also overbroad in seeking information without a reasonable time period. Subject to its objections, OPPD will conduct a reasonable search for non-privileged documents responsive to this request dated after January 1, 2019.

Request for Production No. 31: All documents (other than routine transactional documents) discussing or relating to or consisting of communications between OPPD and any supplier of coal concerning transportation of coal to Destination.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad and unduly burdensome. The request is also overbroad in seeking information without a reasonable time period. Subject to its objections, OPPD will conduct a reasonable search for non-privileged documents responsive to this request dated after January 1, 2019, if any, and produce them to UP.

Request for Production No. 32: All documents (other than routine transactional documents) describing, discussing or relating to the rail service to Destination provided by UP, including but not limited to documents that describe, discuss, analyze, or evaluate: (i) the rail service or possible changes to it; (ii) the size of trains used or to be used; (iii) the number and type of cars per train; (iv) the routing used or to be used; and (v) the weight of coal per car or train.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad and unduly burdensome. The request is also overbroad in seeking information without a reasonable time period. Subject to its objections, OPPD will conduct a reasonable search for non-privileged documents responsive to this request dated after January 1, 2019, if any.

Request for Production No. 33: All documents (other than routine transactional documents) describing, discussing or relating to the rail service to Destination provided by BNSF, including but not limited to documents that describe, discuss, analyze, or evaluate: (i) the rail service or possible changes to it; (ii) the size of trains used or to be used; (iii) the number and type of cars per train; (iv) the routing used or to be used; and (v) the weight of coal per car or train.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad and unduly burdensome. Subject to its objections, OPPD responds that there are no responsive documents because BNSF cannot directly provide rail service to NOPS.

Request for Production No. 34: All documents (other than routine transactional documents) describing, discussing or relating to rates or potential rates for the transportation of coal regardless of mode to Destination, including all documents relating to refunds, discounts, concessions, or allowances in connection with the transportation, delivery, loading or unloading of coal.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad and unduly burdensome, and duplicative of other discovery requests. The request is also overbroad in seeking information without a reasonable time period. The request is further objectionable because it seeks information protected by the attorney-client privilege and work product privilege. Subject to its objections, OPPD will conduct a reasonable search for non-privileged documents responsive to this request dated after January 1, 2019, if any, and produce them to UP.

Request for Production No. 35: All studies, reports, analyses or other documents that compare the cost of transporting coal to Destination to the cost of transporting coal to any other

coal-fired electric generating facility.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is unduly vague overbroad and unduly burdensome because it vaguely and broadly asks for information concerning “any other coal-fired generating facility.” The request is further objectionable because it seeks information protected by the attorney-client privilege and work product privilege.

Request for Production No. 36: All documents, regardless of date, describing, discussing, or relating to rail access or possible rail access to Destination by a company other than UP through a build-in, a build-out, purchase of trackage rights, transportation in conjunction with a non-rail mode, or any other means.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad and unduly burdensome. The request is also overbroad in seeking information without a reasonable time period. Subject to its objections, OPPD will conduct a reasonable search for non-privileged documents responsive to this request dated after January 1, 2019, if any.

Request for Production No. 37: All documents constituting, describing, or relating to forecasts, projections, or estimates of future annual coal traffic volumes or revenues (in total or by receiver) for all coal traffic that used or could use any portion of the UP lines replicated by the stand alone railroad posited by OPPD for purposes of this case.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad and unduly burdensome. The request is further

objectionable because it seeks information protected by the attorney-client privilege and work product privilege. OPPD also objects because this Request prematurely and inappropriately requires OPPD to disclose its litigation position before the submission of opening evidence.

Request for Production No. 38: To the extent that OPPD intends to include non-coal traffic in its stand-alone traffic group, all documents constituting, describing, or relating to forecasts, projections, or estimates of future annual non-coal traffic volumes or revenues (in total or by receiver) for all non-coal traffic that used or could use any portion of the UP lines replicated by the stand alone railroad posited by OPPD for purposes of this case.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad and unduly burdensome. OPPD also objects because this Request prematurely and inappropriately requires OPPD to disclose its litigation position before the submission of opening evidence.

Request for Production No. 39: Documents, regardless of date, sufficient to describe the physical layout of Destination, including but not limited to the following: (i) maps of the facility; (ii) documents that describe all facilities that handle loaded and unloaded rail cars, including facilities used to inspect, maintain, and repair rail cars; (iii) documents that identify the total mileage and configuration of the rail tracks at Destination; and (iv) documents that describe the facilities used to unload coal.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the

reasonableness of the rate OPPD has challenged. The request is also objectionable because it seeks information that is already in the possession, custody, or control of UP. Subject to its objections, OPPD will conduct a reasonable search for a layout or map of the North Omaha Power Station.

Request for Production No. 40: Documents, regardless of date, sufficient to describe the physical layout of any OPPD-owned shops used to service rail cars used by OPPD, including but not limited to the following: (i) maps of the facility; (ii) documents that describe all facilities that handle rail cars, including facilities used to inspect, maintain, repair, and store rail cars; and (iii) documents that identify the total mileage and configuration of the rail tracks at the facilities.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad and unduly burdensome. The request is also overbroad in seeking information without a reasonable time period. Subject to its objections, OPPD will conduct a reasonable search for a layout or map of the North Omaha Power Station's rail facilities.

Request for Production No. 41: All documents relating to the development and submission of any power supply or capacity plans submitted to any state or local governmental entity.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking information

without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 42: All documents relating to the anticipated life of the facilities at Destination, including but not limited to: (i) documents relating to plans to retire units at Destination; (ii) documents relating to the useful life of the boilers at the facility; (iii) studies or analyses of the impact of environmental regulations, including but not limited to regulation of carbon emissions, on the useful life of the facility; (iv) studies or analyses of possible expenditures or investments needed to maintain operations at the facility; (v) engineering studies relating to future operations at the facility.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Request for Production No. 43: All documents relating to analyses or evaluations of the challenged switch charge.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is unduly vague and overbroad and not limited by any timeframe. The request is further objectionable because it seeks information protected by the attorney-client privilege and work product privilege. Subject to the General Objections and Objections to Definitions set forth above, OPPD will conduct a reasonable search for non-privileged documents

responsive this request dated after January 1, 2019..

Request for Production No. 44: All documents relating to payments made to any person other than UP for the fueling and inspection of trains to Destination, the handling or switching of coal cars at Destination, or the loading, unloading, or transloading of coal for use at Destination.

Response:

OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is further objectionable because it seeks information protected by the attorney-client privilege and work product privilege. Subject to the General Objections and Objections to Definitions set forth above, OPPD will conduct a reasonable search for non-privileged documents responsive this request.

Request for Production No. 45: All documents (excluding routine transactional documents), regardless of date, relating to rail cars currently owned or leased by OPPD or relating to negotiations with prospective vendors or lessors of rail cars to OPPD for the possible future purchase or lease of railcars, including but not limited to the following: (i) all documents relating to the decision to acquire rail cars and the reasons those cars were acquired; (ii) internal analyses or evaluations of the possible cost of such rail cars; (iii) correspondence with the possible suppliers of such rail cars; (iv) documents describing or discussing Complainant's plans or business strategy with respect to the possible use of such rail cars; (v) documents describing or discussing the maintenance and storage of such rail cars; and (vi) documents describing or discussing the costs of repairing, inspecting, maintaining, and operating such rail cars.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 46: All documents consisting of rail car repair, inspection, or maintenance agreements with outside contractors in effect during all or any portion of each year from 2018 to the present, and documents providing (a) the amount paid for each car or by car or by car type total and broken down by each service performed under the agreement, and (b) the number of car-miles corresponding to the amounts referenced above.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Request for Production No. 47: All documents relating to the cycle time for each train to Destination, including but not limited to documents containing information on the date of release from the mine, date of delivery at Destination, loading time, unloading time, number of cars, number of bad-order cars, and number of tons.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Request for Production No. 48: All documents relating to train operations between mine origins and Destination and train operations at Destination.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence because it seeks information about undefined “train operations” between mine origins and Gibson Yard. The request is also overbroad in seeking information without a reasonable time period.

Request for Production No. 49: All documents relating to actual or anticipated plant outages at Destination, whether for routine maintenance or any other reason, including but not limited to documents that show the planned and actual time, duration, and cause of each plant outage, curtailment, or interruption.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking

information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 50: All documents reflecting OPPD's payments of the challenged charge to UP.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because and seeks information that is already in UP's possession.

Request for Production No. 51: Documents, regardless of date, sufficient to describe, identify, or depict the current form of organization and governance structure of OPPD, including member-owner cooperatives, divisions, units, departments, committees, boards, and working groups.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 52: All quarterly and annual financial statements and annual reports, including attachments and exhibits.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD

objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 53: All reports provided to OPPD's stakeholders.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is vague and ambiguous as to the meaning of "stakeholder." The request is also overbroad in seeking information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 54: All your RUS Form 12 reports, EIA Form 759, 860, and 861 reports, FERC Form 423 and 580 reports, and responses to FERC queries under Docket No. IN79-6, including all attachments and exhibits.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the

reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 55: All correspondence, reports, comments, or other documents submitted to any federal, state or local public or governmental entity relating to the transportation of coal to OPPD, the cost of such transportation, or plans for future coal transportation.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 56: Each Integrated Resource Plan or similar report or study prepared by, for or about OPPD, including supporting materials.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is also overbroad in seeking

information without a reasonable time period, and seeking information that is not related to the North Omaha Power Station.

Request for Production No. 57: All documents, regardless of date, relied upon or referenced in your responses to the interrogatories that appear below.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged. The request is further objectionable because it seeks information protected by the attorney-client privilege and work product privilege.

INTERROGATORIES

Interrogatory No. 1: Identify all persons other than railroad employees who have provided any service related to the transportation of coal for use at Destination, including fueling and inspection of trains, switching, handling, loading, unloading, or storage of rail cars, and maintenance, inspection, and repair of rail cars, describe the service provided, when that service was provided, and, if the person is affiliated with OPPD, the nature of that affiliation.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence by asking OPPD to “identify all persons other than railroad employees who have provided any service related to the transportation of coal for use at

Destination.” The interrogatory is also overbroad in seeking information without a reasonable time period.

Interrogatory No. 2: For any coal shipped to Destination from 2018 to the present, identify for each shipment:

- a) the date of the shipment;
- b) every carrier involved in the transportation;
- c) the route used;
- d) the total dollar amount of payments made to each carrier involved in the transportation;
- e) the rate or rates in effect;
- f) the number of cars and net tons of coal.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence. This request is also objectionable because it asks for information dated from 2018 to 2021 that is in, or should be, in UP’s records as the rail carrier who delivered coal to NOPS.

Interrogatory No. 3: For any coal shipped to OPPD’s Nebraska City plant from 2018 to the present, identify for each shipment:

- a) the date of the shipment;
- b) every carrier involved in the transportation;
- c) the route used;
- d) the total dollar amount of payments made to each carrier involved in the

transportation;

- e) the rate or rates in effect;
- f) the number of cars and net tons of coal.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is also overbroad in seeking information not relating to the North Omaha Power Station. This request is also objectionable because it asks for information dated from 2018 to 2021 that is in, or should be, in UP's records as the rail carrier who delivered coal to the Nebraska City Power Station.

Interrogatory No. 4: Identify and describe all offers made to, solicited by, or considered by OPPD at any time for the transportation of coal to Destination, regardless of mode or carrier.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence. This request is also objectionable because it asks for information without any restriction on time. This request is also objectionable because it asks for information that is in the files of UP as the rail carrier to both OPPD facilities prior to 2021.

Interrogatory No. 5: Identify and describe any studies, analyses, or communications relating to the possibility that OPPD would acquire, lease, build-in or build-out to, or obtain direct rail access to Destination by a rail carrier other than UP; or that OPPD would obtain coal

transportation to Destination by truck over any portion of the route of movement from the mine.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to OPPD's objections, it responds that OPPD will conduct a reasonable search for non-privileged, responsive documents, if any.

Interrogatory No. 6: State OPPD's projections, forecasts or estimates for each of the following for each year through 2035 (and for any other time periods for which projections or forecasts have been made by OPPD or for OPPD):

- a) coal demand, inventory, and usage by Destination;
- b) shipments from PRB mines to Destination;
- c) electric generating output for each of the generating units at Destination, separately for each coal-fired and gas-fired unit.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 7: For each rail car owned or leased by OPPD, and for each of the calendar years 2018 to the present, identify the following;

- a) The owner or lessee of the car;
- b) The location(s) from which the cars are assigned;
- c) Car initial and number;

- d) Source of car;
- e) Car model or type;
- f) Tare weight;
- g) Date of purchase or lease;
- h) Original cost plus additions and betterments;
- i) Description of financing vehicle (e.g., equipment trust)
- j) Debt rate as a percent;
- k) Finance terms (in years);
- l) Annual depreciation;
- m) Accrued depreciation;
- n) If leased, whether capital or operating lease;
- o) If capital lease, the capitalized value of the lease by car or car group. If group of cars, identify the number (by initial and number) and aggregate dollars;
- p) If operating lease, the quarterly, semi-annual, or annual lease payment by car or car group covering the term of the lease. If a group of cars, identify the number (by initial and number) and aggregate dollars;
- q) The movement history of each car, including location, miles travelled between stations (loaded and empty), and the time and date of arrival at each station;
- r) The history (on a year-to-year basis) of mileage allowance payments or other compensation received by OPPD (or other owner or lessor) for the use of each car.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the

discovery of admissible evidence.

Interrogatory No. 8: For each of the cars identified in response to Interrogatory No. 7, identify maintenance and/or repair expenses by individual car initial and number (owned and leased), incurred by OPPD for each of the calendar years 2018 to the present.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Interrogatory No. 9: For each of the cars identified in response to Interrogatory No. 7, identify the total car unit-miles corresponding to the maintenance and repair expenses identified in Interrogatory No. 8 (*i.e.*, by individual car initial and number, or car type or car series) for each of calendar years 2018 to the present.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Interrogatory No. 10: For each projection, forecast, or estimate produced in response to a Request for Production, identify and describe in detail the methodology used to develop or prepare it, including, but not limited to, the assumptions and sources of information used.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Interrogatory No. 11: Identify each local, state, or federal proceeding since January 1, 2018 in which OPPD has been a party regarding procurement or transportation of coal to one of its electric generating facilities or regarding electric power generation at one of those facilities.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Interrogatory No. 12: State, by non-coal generation source, the amount of power generated by OPPD from non-coal sources in each year since 2010 and projected to be generated in each year in the future for which OPPD has made projections, and the cost of such power.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the

reasonableness of the rate OPPD has challenged.

Interrogatory No. 13: Explain OPPD's current policies and procedures for determining whether and to what extent to generate or purchase electricity for use by its customers.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Interrogatory No. 14: Explain OPPD's current process for fuel supply planning.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.

Interrogatory No. 15: Explain OPPD's current planning process for making coal transportation arrangements.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the

reasonableness of the rate OPPD has challenged.

Interrogatory No. 16: Identify the three present or former employees of OPPD who are most familiar with the following matters:

- a) The competition or bidding for and negotiation of OPPD's current contract with BNSF;
- b) The accounting records relating to OPPD's payments to BNSF under said contract;
- c) The computation and verification of such payments
- d) The physical movement of coal trains to NOPS;
- e) The effect of the challenged switch charge on the rate charged by BNSF under BNSF's current contract with OPPD;
- f) Plans to retire units at NOPS;
- g) Plans to convert units at NOPS to natural gas.

Response:

In addition to the General Objections and Objections to Definitions set forth above, OPPD objects to this Request because it is overbroad, is unduly burdensome, and seeks information that is neither relevant, proportional to the needs of the case, nor reasonably calculated to lead to the discovery of admissible evidence bearing on the allegations contained in the Complaint and the reasonableness of the rate OPPD has challenged.



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Attorneys for Omaha Public Power District

September 12, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of September, 2022, I caused a copy of the foregoing document to be served by email on counsel for Defendant Union Pacific Railroad Company

/s/ Thomas W. Wilcox

BEFORE THE
SURFACE TRANSPORTATION BOARD

Omaha Public Power District	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. NOR 42173
	)	
Union Pacific Railroad Company	)	
	)	
Defendant	)	
	)	

**COMPLAINANT’S FIRST REQUESTS FOR ADMISSIONS,
INTERROGATORIES, AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO DEFENDANT**

Complainant Omaha Public Power District (“OPPD”), pursuant to 49 C.F.R. Part 1114.30, hereby submits its First Requests for Admissions, Interrogatories, and Requests for Production of Documents to Defendant Union Pacific Railroad Company (“UP”).

Responses to OPPD’s Requests for Admissions and answers to Interrogatories, and copies of documents responsive to OPPD’s Requests for Production should be delivered to the Law Office of Thomas W. Wilcox, LLC, 1629 K. Street NW, Suite 300, Washington, D.C. 20006, within thirty (30) days from the date hereof, unless otherwise agreed by the parties. OPPD is prepared to cooperate with Defendant to facilitate the expeditious production of documents with the minimum practical burden.

I. DEFINITIONS

The following defined terms are used herein:

1. “BNSF” means BNSF Railway Company.
2. “OPPD route(s)” means the railroad line segments over which UP moves or reasonably could move loaded and empty coal trains between Origin and Destination.
3. “OPPD train(s)” or “OPPD service” means the trains containing loaded or empty coal cars moving between Origin and Destination over the OPPD route(s).
4. “Challenged Rate” means the rate for common carrier rail transportation service that is the subject of OPPD’s Complaint in this proceeding including any such rate that may be established after the date hereof.
5. “UP Lines” means rail lines over which UP conducts train operations including both lines owned by UP and lines owned by other railroads or entities over which UP has trackage or operating rights, together with all branch lines and spur tracks that connect with these lines. Where information is requested for trains or traffic moving on UP Lines, the request includes information for trains/traffic moving between initial origin and final destination, regardless of whether the initial origin or final destination are located on the specified lines.
6. “UP” means Union Pacific Railroad Company, its present or former employees, agents, counsel, officers, directors, advisors, consultants, divisions, departments, predecessor, parent and/or holding companies, subsidiaries, or any of them, and all other persons acting (or who have acted) on its behalf.

7. “Defendant” means UP as defined in this section.

8. “Destination” means OPPD’s North Omaha Power Station (“NOPS”) located at Omaha, Nebraska.

9. “Distributed power” means a train configuration in which one or more locomotives are positioned at the front of the train and one or more active locomotives are positioned at an intermediate point in the train and/or at the rear of the train, with the intermediate or rear locomotives remotely controlled from the lead locomotive on the train.

10. “Document(s)” means all writings or visual displays of any kind, whether generated by hand or electronic means including without limitation, photographs, lists, memoranda, reports, notes, letters, electronic mail, phone logs, contracts, drafts, workpapers, computer print-outs, electronic data, telecopies, newsletters, notations, books, affidavits, statements (whether or not verified), speeches, summaries, opinions, studies, analyses, evaluations, statistical records, proposals, treatments, outlines, any electronic or mechanical records or representations (including physical things such as, but not limited to, computer disks or drives), and all other materials of any tangible medium or expression, in UP’s current or prior possession, custody or control. A draft or non-identical copy is a separate document within the meaning of this term.

11. “Geocoded” means process or object data associated to an entity which is linked to a specific location or an array of locations on the Earth’s surface through a standard geographic coordinate system.

12. “Geographic Coordinates” means latitude and longitude coordinates (in decimal values, with no decimal value truncation) associated to a named and standard geographic coordinate system, such as “North American Datum of 1927.”

13. “Identify,” when referring to a document, means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and/or recipient(s).

14. “Identify,” when referring to information, means to list or produce documents containing the specified information.

15. “Local Train” means “Way train” as used in UP’s R-1 Annual Report Form R-1 to the STB.

16. “Origin” means the interchange between UP and BNSF in the vicinity of Omaha, Nebraska at BNSF’s Gibson Yard (“Gibson Yard Interchange”) that is described in UP’s “UP Reciprocal Switching Circular UP 8005 F” (the “Circular”), a copy of which is attached as Exhibit A to OPPD’s Complaint.

17. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions or other legal entities, as the case may be.

18. “Possession, custody, or control” refers to and includes documents actually within the possession, custody or control of UP or any other person acting for or in concert with UP; and refers to and includes documents prepared by, obtained, or placed in the possession, custody, or control of any such person within the scope of his or her duties or relationship to UP; and further refers to and includes documents having been

placed in the temporary possession, custody, or control of any third party by any of the foregoing or UP. Documents are deemed to be in the possession, custody, or control of UP if UP has the right to secure the document, or a copy thereof, from another person or entity, whether public or private, having such actual physical possession, custody, or control thereof.

19. “Price” or “prices” mean the price per ton or other unit of measure, and whether it is f.o.b. or f.a.s. a railroad car, vessel, destination, port or other conveyance.

20. “Related,” “related to,” and “relating to” mean and include making a statement discussing, describing, referring to, reflecting, explaining, analyzing, or in any way pertaining to, in whole or in part, the subject matter of the Interrogatory or Request.

21. “Road Train” means “Unit Train” and “Through Train” as used in UP’s Annual Report Form R-1 to the STB.

22. “Short Line Railroad” means any non-Class I railroad that connects to a UP rail line in Nebraska.

23. “STB” means the U.S. Surface Transportation Board.

24. “And,” “or,” and/or “each” shall be construed in the disjunctive or conjunctive as necessary in order to bring within the scope of each Interrogatory or Request all responsive information or documents which otherwise might be construed as outside the scope of the Interrogatory or Request. All use of the masculine gender shall be deemed to include the feminine.

25. "Replacement Costs," unless otherwise specified, has the same meaning as used in UP's written comments to date in STB Docket Ex Parte No. 722, *Railroad Revenue Adequacy*.

26. "Revenue Adequacy Criteria" means earning revenues that are:

(a) adequate, under honest, economical, and efficient management, to cover:

(1) total operating expenses including depreciation and obsolescence; and (2) a reasonable and economic profit or return (or both) on capital employed in the business;

(b) provide a flow of net income plus depreciation adequate to:

(1) support prudent capital outlays; (2) assure the repayment of a reasonable level of debt; (3) permit the raising of needed equity capital;

(c) cover the effects of inflation; and

(d) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

II. INSTRUCTIONS

UP is requested to conform to the following instructions in responding to these Requests and Interrogatories. Each paragraph shall operate and be construed independently. Unless otherwise indicated, no paragraph limits the scope of any other paragraph.

1. Where these discovery requests seek data in a computer-readable format, machine-readable format, or in its native format, this data is defined as an electronic file which contains structured, relational data, and is managed within a commercially available and relational database system (for example Microsoft, Oracle, IBM) and is readable via commercially available and standard Microsoft Windows software API

(Application Programming Interfaces) methods to include Open Database Connectivity (ODBC) implementations, thereby making the data accessible independent of the host system.

If the source table is stored within a non-relational system, such as a 'flat file', or a custom system (not commercially available), provide the data in standard sequential or delimited text files. The text files will be MS-DOS or MS-Windows compatible text formats.

- a. For each computer file supplied provide:
 - i. The name and description of the source database or other file from which the records in the computer file were selected (stating whether the file is an original extract from a line of business transactional or data warehouse computer system, or if the provided file is an extract, or report, created specifically for this request) including a graphic or textural representation of the database relational model for each system to include all named tables of data within the system's relational model, and for every table provide a list of fields, primary keys, foreign keys, list relational links to other tables and fields, and filters, if any, associated to the relational links. Include all related tables, and all fields within each included table. List the fields which define a unique record (row) for each table, or state if the table does not require unique row differentiators or primary keys. For code tables, provide the code, and associated data elements in a discreet list (no duplicates);
 - ii. A description of how the records in the file produced were selected;
 - iii. The original table names (no aliases), original field names, to match the provided systems' data structures within each computer program (in native software and text file) and intermediate file used in deriving the files produced if the files produced are flat files. If the files produced are commercially available relational database files, provide the method used and code (if code was created) used to export the data to this

relational format including the operating system and version under which the final text files or relational tables were produced; and

- iv. A relational diagram defining relationships amongst tables, with all fields, listing primary keys, foreign keys, with each table or file provided as listed in the relational diagram. Also provide all table indexes, and index files, which define the index to be clustered or non-clustered.
- b. For each field in each computer database file provide a complete, standard data structure including:
- i. The name of the field including its source table name, and if different from the LOB (line of business) or off-line analytical system field name, provide all field name incarnations so that there is a linkage between the provided fieldname and the original source fieldname and source table, and source application/system. Also provide the “Synonymous Name”, that being a single word or multiple words that differ from the fieldname, but represents the same data element using alternative or more descriptive terminology. Also provide the “Context”, that being a designation or description of the application environment in which the data item (or field) is applied or from which it is originally derived (its origin);
 - ii. The starting and ending positions of the field if the file is a non-delimited flat file, or if the file is delimited, verify that the delimiter is inserted at the end of each field and the delimiter is not contained, as data, within any data cell (provide row terminators and line feed codes), otherwise, if the provided data set is a relational database "table", export the table structure into a separate ANSI SQL 92 code or text file;
 - iii. A detailed definition of the field and whether this field is the record's (or row's) unique identifier, or it is one of many fields which create a unique row (list them);
 - iv. A detailed description of the data in the field including an explanation of what they are used for and also provide all related index files in SQL code format or text files, if any;

- v. The type of data in the field, i.e., whether numeric, character, alphanumeric, number of digits, number of significant digits, whether signed or unsigned (i.e., negatives allowed) and whether this field is Unicode, or contains any constraints, or requirements to be Non-Null, or non-blank;
- vi. If the values in a field are codes, terms or abbreviations, provide a list of all codes, terms or abbreviations used with detailed definitions of each and provide the approved domain (range of values if indeterminate) or list of values permitted if determinate. Also provide minimum and maximum values including whether the values are Null, hidden, or specific ASCII or ISO codes. Include the character encoding or software vendor's code page, for each table if any;
- vii. An indication of whether the data in the field are packed or compressed;
- viii. If the data in the field are packed or compressed, the type of packing or compression:
 - (1) Zoned with low-order sign;
 - (2) Binary with LSB first;
 - (3) Binary with MSB first;
 - (4) Packed with high-order sign;
 - (5) Packed with low-order sign;
 - (6) Packed with no sign; and
 - (7) Other (specify and provide detailed instructions for unpacking).
- ix. If the data files and tables originate on a non-Microsoft Windows operating system, state the original operating system and convert to Microsoft Windows format; and
- x. For data or other electronic information submissions where the source system does not have a 32-bit operating system, verify that all data and files are computer-readable on a 32-bit operating system.

2. If an answer to an Interrogatory or the production of any responsive document is withheld under 49 C.F.R. § 1114.30(a)(1) on the basis of a claimed privilege

or attorney work product, then for each such answer or document, provide the following information: its date, type (e.g., letter, meeting notes, memo, etc.), author (note if author is an attorney), addressee(s)/recipient(s) (note if addressee(s) or recipient(s) is an attorney), general subject matter, and basis for withholding the information. OPPD is willing to negotiate the scope of any privilege log requested in this instruction.

3. If the answer to any Interrogatory or the production of any responsive document is withheld on claimed grounds other than privilege or attorney work product, provide the information described in Instruction No. 2 and state with specificity the basis for such withholding.

4. Defendant is requested to supplement its production in the manner provided in 49 C.F.R. Part 1114.29.

5. All documents should be produced or made available for inspection in the form in which they are retained by UP in the usual course of business (*e.g.*, if the documents are in a file, the file containing the documents should be produced), unless otherwise agreed by OPPD and UP.

6. Please organize or number the documents produced in such a manner that OPPD readily may determine which documents are being produced in response to each specific Request for Production. If no document is produced in response to any specific Request, please so indicate in the response.

7. OPPD reserves the right to file supplemental or follow-up Interrogatories or Requests for Production, and pursue other discovery, as necessary or appropriate.

III. REQUESTS FOR ADMISSIONS

Request for Admission No. 1

Admit that UP faces no effective intramodal competition for the transportation of coal from Origin to Destination.

Request for Admission No. 2

Admit that UP faces no effective intermodal competition for the transportation of coal from Origin to Destination.

Request for Admission No. 3

Admit that: (a) UP is the only railroad with tracks connected to the NOPS plant tracks, and therefore the only railroad capable of providing direct rail service to NOPS from the Gibson Yard Interchange; (b) neither motor carriage nor water vessel transportation represents a practical and economically viable alternative to unit train rail service; and (c) UP does not face effective competition for the transportation of coal to NOPS from BNSF's Gibson Yard.

Request for Admission No. 4

Admit that the UP switch rate is more than 180% of the variable cost of the service between NOPS and the Gibson Yard Interchange.

IV. INTERROGATORIES

Interrogatory No. 1

If UP's response to Request for Admission No. 1 was anything other than an unqualified admission, please describe in detail the effective intramodal competition that Defendant claims exists for the transportation to which the Challenged Rate applies, the annual volume of coal subject to such competition, the rate reductions or other consideration that Defendant has offered to OPPD for transportation between Origin and Destination in response to such competition, and why such competition is effective.

Interrogatory No. 2

If UP's response to Request for Admission No. 2 was anything other than an unqualified admission, please describe in detail the effective intermodal competition that Defendant claims exists for the transportation to which the Challenged Rate applies, the annual volume of coal subject to such competition, the rate reductions or other consideration that Defendant has offered to OPPD for transportation between Origin and Destination in response to such competition, and why such competition is effective.

Interrogatory No. 3

Provide a description of the movement of OPPD's trains by UP from Origin to Destination and from Destination to Origin including, but not limited to, a description of all transportation-related activities (including placing and/or interchanging trains with other railroads, holding loaded or empty trains in transit, providing notifications to OPPD or other railroads, inspecting trains, changing crews and other related activities) at Origin, at Destination, and at intermediate stations or other points between Origin and Destination.

Interrogatory No. 4

To the extent that the information is not included in your response to Interrogatory No. 3, please describe:

- a. The location and length (route miles) of each crew district (identified by “from and to” stations) traveled by the OPPD trains when operated by UP;
- b. The location(s) where the locomotives on the OPPD trains are fueled by UP and the fueling procedures used (*e.g.*, DTL);
- c. If distributed power is used, please describe the distributed power configuration used for locomotives on the OPPD trains;
- d. The operations involved in interchanging the OPPD trains with BNSF at the Gibson Yard Interchange including, but not limited to, operations involving the removal, placement and/or re-positioning of locomotives on the trains;
- e. Any run-through locomotive power arrangements between UP and BNSF in effect between 2019 and the present which apply to the OPPD trains interchanged at the Gibson Yard Interchange;
- f. The operations in delivering loaded trains to, placing loaded trains for unloading at, and removing empty trains subsequent to unloading from, the railcar unloading facilities at Destination including, but not limited to, operations involving the removal, placement and/or repositioning of locomotives or railcars;
- g. Identify any other carriers tracks, personnel or facilities used to perform any activities for OPPD’s trains moving between Origin and Destinations; and
- h. Identify any third-party contractors that perform any services on behalf of UP for OPPD’s trains moving between Origin and Destination.

Interrogatory No. 5

Please identify the location and name of each intermodal terminal, Automotive Distribution Center, bulk transfer facility or yard located on UP Lines in Nebraska.

Interrogatory No. 6

For each calendar year from 2017 through 2021, please provide:

- a. The total amount of corporate debt incurred or assumed by UP including principal and all accrued interest, that was outstanding as of the first day of such year;
- b. The total principal amount of new corporate debt incurred or assumed by UP, during such year; and
- c. The total amount of corporate debt for which UP was responsible for repayment including principal and all accrued interest, which remained outstanding as of the last day of such year.

As used in this Interrogatory, “corporate debt” refers to all types of commercial (as distinguished from personal or residential) indebtedness including, but not limited to, bonds, notes, debentures, equipment trust certificates, conditional sales agreements and capitalized leases whether secured or unsecured and regardless of the source of the borrowing.

Interrogatory No. 7

For each calendar year from 2017 through 2021, please provide:

- a. The total number of shares of common stock and total number of shares of preferred stock (by class, if applicable) that were issued and outstanding as of the first day of the year;

- b. The total number of shares of common stock and total number of shares of preferred stock (by class) that were repurchased by UP during such year;
- c. The total amount expended (stated separately for common and preferred stock) to make the repurchases described in Subpart b; and
- d. The sources (stated separately by source and amount) of the funds used to make the repurchases described in Subpart b.

Interrogatory No. 8

Please identify any computer programs or models that are currently being used or have been used by UP in the past three years to (a) download locomotive, train and/or car event or similar data from locomotives, trains, and/or cars along any line segment on UP Lines in Nebraska including, but not limited to, the Event Recorder Automated Download system or any successor thereto and/or (b) process locomotive event data for purposes of determining locomotive throttle position and/or fuel consumption.

Interrogatory No. 9

Please describe how hazardous materials are handled by UP in each of the yards identified in response to Interrogatory No. 5, and specifically describe the procedures used by UP to classify railcars containing hazardous materials and if such classification occurs in a separately designated portion of the yards.

Interrogatory No. 10

Please identify UP affiliates that provide services to UP in Nebraska. Describe the services provided by these affiliates. Also provide a description of payments made to affiliates, equity contributions made to affiliates, distributions from affiliates, and other financial or accounting transactions between UP and affiliate.

Interrogatory No. 11

Please state whether UP has calculated its current cost of equity capital ("COE") or current weighted average cost of capital ("COC") during the period January 1, 2019 through the present. If it has, please identify (a) the COE and/or COC values that UP calculated and the periods (including future periods) for which the values were calculated; (b) the methodology, assumptions and inputs used to determine the values; (c) whether and how UP utilized the values that were calculated; and (d) any adjustments that UP made in calculating and/or utilizing the values. Please identify all documents that support your response and/or that memorialize your calculations.

Interrogatory No. 12

Please describe your methodology and inputs for calculating UP's COE and COC for the time periods specified in response to the previous Interrogatory. Please describe any adjustments that were made to the COE and COC values in performing the calculations. Please identify all documents that support your response.

Interrogatory No. 13

Please state whether the Challenged Rate reflect Congestion Pricing. If so, please explain (a) what is meant by Congestion Pricing in this context; (b) how Congestion Pricing was used in establishing the level of the Challenged Rate; (c) whether and how Congestion Pricing is compatible with the Stand-Alone Cost Constraint under the STB's *Coal Rate Guidelines*; (d) how and why Congestion Pricing is not subsumed within application of the MMM (Maximum Markup Methodology) under the *Guidelines*;

and (e) how or why Congestion Pricing allows UP to charge a rate higher than that identified under MMM. Please identify all documents that show how Congestion Pricing was taken into account in establishing the Challenged Rates.

Interrogatory No. 14

Please state whether Congestion Pricing takes into account UP's costs of providing OPPD service, and any other service over any portion of OPPD's route. If so, please identify and describe: (a) the costs for OPPD's service and other service that was accounted for; (b) the cost factors; and (c) the costing system that was utilized to take these costs into account. Please state whether and describe the extent to which those costs include opportunity costs.

Interrogatory No. 15

To the extent that the cost system(s) used by UP that is described in Interrogatory No. 14 differs from the STB's Uniform Rail Costing System, please identify (a) the cost system(s) utilized; (b) the inputs used to develop costs using such system(s); (c) the mathematical calculations used to develop the costs; and (d) the underlying support for the choice of inputs and mathematical calculations.

Interrogatory No. 16

Please state whether and describe the manner in which Congestion Pricing and the cost system(s) described in Interrogatory Nos. 14 and 15 take into account the Replacement Costs of UP's assets. Please identify all documents that show

how Replacement Costs are taken into account in Congestion Pricing as applied in the determination of the Challenged Rates.

Interrogatory No. 17

Please state whether UP calculates, tracks and/or utilizes Replacement Costs in the regular course of business. If so, please describe how UP calculates, tracks and/or utilizes Replacement Costs including, but not limited to, your choice of inputs, assumptions, and methodologies. Please identify all Replacement Cost calculations that UP has performed since January 1, 2019, and explain whether and how Replacement Costs are used by UP to determine rates, dividends, stock buybacks, capital expenditures, and/or executive compensation.

Interrogatory No. 18

Please identify any discussions since January 1, 2019 between representatives of UP and representatives of equity and debt analysts and/or rating agencies relating to: (a) UP's Replacement Costs, their calculation or their use in financial planning or the setting of revenue goals; (b) UP's ability to meet the Revenue Adequacy Criteria; and (c) UP's success or lack of success in earning returns on invested capital equal to its COC or COE. Please describe in detail the substance of all such discussions. Please identify all documents that support your Answer or that relate to or memorialize any of those discussions.

Interrogatory No. 19

Please state whether, and if so, describe how the determination of compensation paid to UP executives takes into account: (a) UP's COC or COE; (b) whether UP's earnings or return on investment have matched or exceeded its COC or COE; and (c) whether UP's earnings are sufficient to cover Replacement Costs. If the COC or COE is taken into account, please identify the COC and/or COE percentages used, the methodology for calculating the COC and/or COE, and all inputs utilized. If UP's earnings relative to the COC or COE are taken into account, please identify how the earnings and investment base used in that accounting are determined. If Replacement Costs are taken into account, please identify how Replacement Costs are determined. Please identify all documents that support your Answer.

Interrogatory No. 20

Please identify and describe any corporate or enterprise-level projections that UP has made from January 1, 2019 to the present of UP's future annual revenues, costs, earnings, profits, operating ratios, return on investment, return on invested capital and/or return on equity for any time period(s) subsequent to December 31, 2020. Please identify all documents that support your response and/or that memorialize your projections.

Interrogatory No. 21

Please describe the purposes and objectives of UP stock repurchases, or planned stock repurchases that UP has made since January 1, 2019. The description should include, without limitation: (a) why UP decided to make such repurchases or planned repurchases; (b) whether UP determined that shares that were or would be repurchased were worth more or less than, or the same as, the purchase price, and by what measure; (c) any comparisons of the return or benefits that UP obtained or produced, or expected to obtain or produce, on such repurchases or planned repurchases, both in general and relative to other potential uses of the funds used, or to be used, in the repurchases; (d) any return on assets, investment, capital, invested capital, and/or equity, or change in operating ratio, considered, achieved, and/or anticipated in conjunction with such repurchases or planned repurchases; and (e) whether and/or how such repurchases or planned repurchases increased or decreased, or were expected to increase or decrease, the value or price of UP stock or UP earnings per share.

Interrogatory No. 22

Please describe in detail the operations between UP and BNSF by which OPPD's trains are transferred to UP at the Gibson Yard Interchange for final delivery to NOPS, and the return of unloaded OPPD trains to the Gibson Yard Interchange for transfer to BNSF.

V. DOCUMENT PRODUCTION REQUESTS

Request for Production No. 1

Please produce all correspondence between UP and BNSF dating from January 1, 2020 to the present relating to the operations between UP and BNSF by which OPPD's trains are transferred to UP at the Gibson Yard Interchange for final delivery to NOPS, and returned to the Gibson Yard Interchange after being unloaded.

Request for Production No. 2

Please produce all correspondence between UP and OPPD dating from January 1, 2020 to the present relating to the operations by which OPPD's trains are transferred to UP at the Gibson Yard Interchange for final delivery to NOPS, and returned to the Gibson Yard Interchange after being unloaded.

Request for Production No. 3

Please produce all documents dating from January 1, 2020 to the present referring or relating to the requests of OPPD to UP, and to BNSF, to be directly invoiced for payment of the Challenged Rate, including but not limited to all correspondence between BNSF and UP referring or relating to OPPD's request.

Request for Production No. 4

Please produce all tariffs and supplements dated from 2020 to the present applicable to the movement of coal by UP from the Gibson Yard Interchange to NOPS.

Request for Production No. 5

Please produce all agreements, contracts, or contract provisions between UP and BNSF dating from 2020 to the present applicable to the movement of coal received by UP from BNSF in Omaha and delivered by UP to NOPS.

Request for Production No. 6

Please produce all agreements, contracts, or contract provisions between UP and BNSF related to UP's provision of services pursuant to the terms of the Circular.

Request for Production No. 7

Please produce all documents related to the establishment of the Challenged Rate including, but not limited to, all documents used and/or relied upon in determining any formula or other methodology used for calculating the rates.

Request for Production No. 8

Please produce any studies, analyses and other documents in UP's possession from January 1, 2019 to the present regarding the transportation of coal to Destination from Origin (a) by a rail carrier(s) other than UP; and (b) by any mode of transportation other than rail. If no such documents exist, please confirm same in the response to this Request.

Request for Production No. 9

Please provide the density information described below for UP's rail system for each year or partial year 2019 to the present in a computer readable database or electronic spreadsheet including all record layouts, all field descriptions, data definitions and data dictionaries/decoders required to utilize the data. The density database should include, at a minimum, the following data:

- a. Identification of the unique railroad divisions, subdivisions, and individual line segments for each unique density segment;
- b. Station name and SPLC at the beginning of a unique density segment and at the end of a unique density segment;
- c. Beginning and ending milepost for each unique density segment;
- d. Rail and track mileage for each unique density segment;
- e. (i) Total density (both directions including empty and loaded trains) by segment expressed in net ton-miles, (ii) total density (both directions including empty and loaded trains) by segment expressed in gross ton-miles plus appropriate factors that can be used to convert gross ton-miles to net ton-miles, (iii) total density (both directions including empty and loaded trains) by segment expressed in car-miles; and
- f. Density information (i) for segments that UP utilizes via trackage rights (or other joint facility or joint use agreements) on another railroad, (ii) for segments where another railroad(s) operates by trackage rights (or other joint facility or joint use agreements) over UP segments and (iii) an identification of such densities in (i) and (ii) that are included in the total densities provided in response to subpart e. above.

Request for Production No. 10

Please produce density charts and/or maps for the UP system for the period 2019 to the present.

Request for Production No. 11

Please produce documents sufficient to show the maximum permissible gross weight on rail (“GWR”) per railcar for all UP Lines in Nebraska, and for all segments having a GWR less than 286,000 lbs. per railcar, please produce document sufficient to show the items and factors that limit the GWR for the identified segments.

Request for Production No. 12

For each UP line segment and for any other railroad's line segments which UP utilizes via trackage rights agreements, please produce documents, in a computer-readable database or spreadsheet format to the extent available, which contain operating statistics and density data (including, but not limited to, train miles, train hours, locomotive unit miles, loaded car-miles, empty car-miles, net ton-miles, gross ton-miles (both including and excluding locomotives), number of trains, etc.) for all traffic by commodity for each year or partial year 2019 to the present.

Request for Production No. 13

For each Road Train and Local Train operating over the OPPD route, please produce documents sufficient to show:

- a. UP's train identifier or designation and/or symbol of each identified Road Train and the beginning and end points served by each of the identified Road Trains;
- b. Whether the crews are assigned or in pool service;
- c. The home and away-from-home terminals for each crew district;
- d. The scheduled on-duty and off-duty locations for each crew assigned to the identified Road Trains;
- e. The number of crew members assigned per shift to each of the identified Road Trains;
- f. The number and type of locomotives assigned to each of the Road Trains;
- g. The number and type of loaded and empty cars assigned to each of the Road Trains;
- h. The trailing length for each of the identified Road Trains;

- i. The trailing weight for each of the identified Road Trains;
- j. The scheduled frequency of service for each identified Road Train;
and
- k. The scheduled time of departure and arrival at stations served by each
of the identified Road Trains.

Request for Production No. 14

Please produce the databases, data warehouses and computer programs (with all documentation related to these databases and computer programs and associated selection criteria), in a computer-readable format, that include the information listed below for each movement handled by UP as originating, terminating, overhead or single-line carrier for each year or partial year 2019 to the present. To the extent this data is contained in separate tables, please provide the appropriate fields to correctly link the separate tables. Please also include appropriate fields required to correctly link this data to the car event data discussed in Request for Production No. 15 including any “foreign key(s)” UP uses in the normal course of business to link the data sets.

- a. The name of the consignee, shipper, payee, and customer for each shipment record;
- b. Commodity (seven-digit Standard Transportation Commodity Code “STCC”);
- c. Toxic Inhalation Hazard/Poisonous Inhalation Hazard (“TIH/PIH”) Commodity Identifier;
- d. Origin station and State;
- e. Destination station and State;

- f. For shipments that originated on UP's system(s), the date and time the shipment was originated;
- g. For shipments UP received in interchange, the on-junction location station, state, Standard Point Location Code ("SPLC"), Freight Station Accounting Code ("FSAC"), and milepost;
- h. For shipments UP received in interchange, the road received from;
- i. For shipments UP received in interchange, the date and time the shipment was interchanged;
- j. For shipments given in interchange, off-junction location station, state, SPLC, FSAC, and milepost;
- k. For shipments given in interchange, the railroad given to;
- l. For shipments given in interchange, the date and time the shipment was interchanged;
- m. For shipments terminated on UP's system, the date and time the shipment was terminated;
- n. Origin FSAC;
- o. Destination FSAC;
- p. Origin SPLC;
- q. Destination SPLC;
- r. Number of rail cars;
- s. Number of intermodal containers or trailers;
- t. Tons (Net);
- u. Rail car tare weight;
- v. Intermodal container or trailer tare weight
- w. Total freight revenues from origin to destination, or UP's share of the total freight revenues in the event that UP was not the sole carrier for

a particular movement including any adjustments thereto, along with a description of the adjustment (*i.e.*, add to or subtract from gross revenue);

- x. Total revenues from surcharges (including, but not limited to, fuel surcharges), and whether such revenue from surcharges is included in the total freight revenues and UP's division thereof provided in response to Subpart w. above;
- y. The contract, agreement, tariff, or other pricing authority that the shipment is billed under including the amendment and item numbers;
- z. Unique Waybill number and date;
- aa. TOFC/COFC plan;
- bb. Car/trailer/container initial for each car/trailer/container used to move the shipment (for intermodal movements provide both the railcar and container/trailer initial);
- cc. Car/trailer/container number for each car/trailer/container used to move the shipment (for intermodal movements provide both the railcar and container/trailer number);
- dd. The unique train identification initial and number of all trains used to move the shipment;
- ee. The number of locomotives, by train identification, by segment, used to move the shipment;
- ff. The total horsepower, by train identification, by line segment, used to move the shipment;
- gg. The station, state and SPLC where the traffic was interchanged between trains;
- hh. Total loaded movement miles;
- ii. Total loaded miles on UP's system;
- jj. The predominant route of movement for each shipment on UP's system that is associated with the loaded movement miles;

- kk. AAR car-type code;
- ll. Provider of car and container/trailer (UP-owned, UP-leased, shipper or foreign road);
- mm. Total empty movement miles;
- nn. Total empty miles on UP's system;
- oo. Miles used to derive applicable fuel surcharges;
- pp. Applicable fuel surcharge rate;
- qq. Intermodal service plan code and the intermodal line of business code for each intermodal shipment;
- rr. Length, width and height for each car/container/trailer used to move the shipment;
- ss. Number of articulated wells included (where applicable) in an individual railcar used to move an intermodal (or other) shipment; and
- tt. Field with a flag to indicate whether the shipment travelled over the OPPD route.

Request for Production No. 15

Please produce documents, in a computer-readable format to the extent available, which contain complete information (including all events) tracking and describing car, trailer/container, and locomotive movements (including yard and hub operations) from origin to destination for each car, trailer/container, and locomotive moving on the UP system for each year or partial year 2019 to the present. Please include appropriate fields required to correctly link this data to the waybill data discussed in Request for Production No. 14 and the train event data discussed in Request for Production No. 16 including any “foreign key(s)” UP uses in the normal course of business to link the

data sets. The car event information provided should include, but not be limited to, the following information:

- a. Car Initial;
- b. Car Number;
- c. Car Owner (System, Foreign, Private);
- d. Tare weight;
- e. Lading weight;
- f. Number of intermodal units on flat cars;
- g. Event Sequence Number;
- h. Year;
- i. Month;
- j. Day;
- k. Unique Train Identification Symbol and/or Number;
- l. Train Date;
- m. Unique Waybill Number;
- n. Waybill Date;
- o. Load/Empty Indicator;
- p. Unique Shipment Identification Number;
- q. Actual event date/time stamp for nodal events (if movement link data are provided, provide timestamps for both car departure from line segment begin node and car arrival at line segment end node);
- r. Time zone indicator (of the Event date/time stamp);
- s. Event type indicator specifying if the event was an arrival, a departure, an intermediate switching/handling event, or an instantaneous time as in the case of a non-dwell event (e.g., passing a scanner);

- t. Unique System/Network Location Identifier (if movement link data are provided, provide for both line segment begin and end nodes). Include the following:
 - i. Station name;
 - ii. City or metropolitan name;
 - iii. State / Province name;
 - iv. SPLC;
 - v. Engineering milepost; and,
 - vi. Transportation milepost.
- u. Trackage Rights Indicator;
- v. Switching Type indicator (specifying if the event is classifying a car onto a train, classifying the car off a train, or intermediate switching);
- w. Line segment name (for movement link data);
- x. Direction of travel (for movement link data please also indicate whether the car movement was from line segment begin node-to-end node or end node-to-begin node);
- y. Interchange Indicator specifying if the car was received or delivered in interchange;
- z. Identification of interchange railroad;
- aa. Industry Handling Indicator specifying if the car was pulled from origin or placed at destination;
- bb. Time elapsed at event location;
- cc. Time elapsed between event locations;
- dd. Miles between event locations; and
- ee. Field with a flag to indicate whether the car event was on the OPPD route.

Request for Production No. 16

Please provide documents that record complete train movement data (including all events and intermediate stations) in a computer readable format to the extent available, from origin to destination for all UP train movements (including yard and hub

operations) for each year or partial year 2019 to the present. Please include the appropriate fields required to correctly link this data to the car event data discussed in Request for Production No. 15 including any “foreign key(s)” UP uses in the normal course of business to link the data sets. The train movement information provided should include, but not be limited to, the following information:

- a. Unique Train Identification Symbol and/or Number;
- b. Train Date;
- c. Train Type (intermodal, unit, merchandise, foreign, etc.);
- d. Event Sequence Number;
- e. Year;
- f. Month;
- g. Day;
- h. Event date/time stamp;
- i. Time zone indicator (of the Event date/time stamp);
- j. Event type indicator specifying if the event was an arrival, a departure, an intermediate handling event, or an instantaneous time as in the case of a non-dwell event (e.g., passing a scanner);
- k. Unique System/Network Location Identifier (if for movement data, provide for both line segment begin and end nodes). Include the following:
 - i. Station name;
 - ii. City or metropolitan name;
 - iii. State / Province name;
 - iv. SPLC;
 - v. Engineering milepost; and,
 - vi. Transportation milepost.
- l. Trackage Rights Indicator;

- m. Number of loaded cars arriving at station;
- n. Number of loaded cars departing from station;
- o. Number of loaded intermodal units arriving at station;
- p. Number of loaded intermodal units departing from station;
- q. Number of empty cars arriving at station;
- r. Number of empty cars departing from station;
- s. Number of empty intermodal units arriving at station;
- t. Number of empty intermodal units departing from station;
- u. Trailing net tons arriving at station;
- v. Trailing net tons departing from station;
- w. Trailing gross tons arriving at station;
- x. Trailing gross tons departing from station;
- y. Length of train arriving at station;
- z. Length of train departing from station;
- aa. Number of active locomotives arriving at station;
- bb. Number of active locomotives departing from station;
- cc. Horsepower of active locomotives arriving at station;
- dd. Horsepower of active locomotives departing from station;
- ee. A flag indicating if the location was turn station;
- ff. Unit Train Loading/Unloading Indicator (for unit trains indicate if the cars were loaded or unloaded at station);
- gg. Switching Indicator (indicate if the train was picking up or dropping off cars);
- hh. Number of cars switched onto train;
- ii. Number of cars switched out of train;

- jj. Number of cars repositioned on train;
- kk. Train Crew Change Indicator;
- ll. Train Fueling Indicator;
- mm. Meet/Pass Indicator;
- nn. Line segment name;
- oo. Direction of travel (for movement link data please also indicate whether the car movement was from line segment begin node-to-end node or end node-to-begin node);
- pp. Interchange Indicator specifying if the train was received or delivered in interchange;
- qq. Identification of Interchange Railroad;
- rr. Industry Handling Indicator specifying if the train pulled cars from origin or placed cars at destination;
- ss. Time elapsed at event location;
- tt. Time elapsed between event locations;
- uu. Miles between event locations; and
- vv. Field with a flag to indicate whether the train event was on the OPPD route.

Request for Production No. 17

Please provide all documents including computer programs, definitions, decoders, and instructions, necessary to utilize, evaluate and link the data produced in response to Request for Production No. 13, Request for Production No. 14, Request for Production No. 15 and Request for Production No. 16. Please include with this production a description of the relationship between the databases (*e.g.*, whether there is a 1:1 ratio between databases, or whether one can expect to link 100% of the records in one file to

another file). Please also indicate which data fields are common (and may be used to link) to the provided databases.

Request for Production No. 18

Please produce documents sufficient to show the relationship(s) among, and scope of, all databases used to record, monitor, track and invoice trains and/or cars on UP's system including, but not limited to, graphical representations of such systems.

Request for Production No. 19

For each database identified in response to Request for Production No. 18, please produce documents sufficient to show the fields in each database and the type of data in each field (*i.e.*, a detailed field description and decoder for each unique entry in each field).

Request for Production No. 20

For each database identified in response to Request for Production No. 18, please produce documents sufficient to show the standard reports (including a description of the report) that are produced from data contained in the databases including reports that rely on multiple databases. "Standard reports" include regularly scheduled recurring reports and commonly requested ad-hoc reports.

Request for Production No. 21

Please produce all transportation contracts including amendments and supplements thereto (or letters of understanding with appendices or attachments), and all tariffs, common carrier pricing authorities or other documents containing common carrier rate and service terms (collectively "pricing authorities"), entered into, agreed to or

established or provided by UP which govern or governed shipments handled by UP as originating, terminating, overhead or single-line carrier on the OPPD route for each year or partial year 2019 to the present. For each pricing authority, please provide the traffic volumes and revenues associated with the movement of traffic under each pricing authority by traffic group (e.g., coal, agriculture, intermodal, etc.) for each year or partial year 2019 through the present.

Request for Production No. 22

Please produce all forecasts and all documents related to forecasts or projections prepared by or for UP from 2019 through the present, or in UP's possession and relate to that time period, of future traffic volumes and/or revenues for all freight traffic by traffic group (including any breakdown of any such forecasts or projections whether by commodity classification, geographic regions, line segment, or any other category) including, but not limited to, traffic projections prepared in connection with engineering studies, authorizations for expenditures or other road property investments, marketing studies, operating expense budgets, capital budgets, human resource planning, or mergers with or acquisition of other carriers.

Request for Production No. 23

To the extent such documents are not produced in response to Request for Production No. 22, please produce copies of all computer programs and databases used by UP from 2019 through the present to forecast or project volumes and/or revenues for all traffic moving over any portion of the OPPD route.

Request for Production No. 24

Please provide the following UP Geographic/Geospatial Information System (“GIS”) data for the State of Nebraska. The GIS data should be viewable, readable, and writable with no access limitations. The GIS data should be able to be read using current off the shelf (COTS) software, using either ESRI ArcView (ArcGIS) or MapInfo Pro (MapInfo/ Pitney Bowes):

- a. Map Projections defined per layer;
- b. GIS files associated with and/or created by the GIS software system, to include:

1. In their original vector, or other, file format to include file types such as:

For ESRI application software:

- a) .shp (shape files, feature geometry)
- b) .shx (shape file indexes)
- c) .dbf (attribute format)
- d) .prj (projection format)
- e) .sbn, .sbx (spatial indexes of features)
- f) .fbn, .fbx (spatial index of features)
- g) .ixs (geocoding indexes)
- h) .mxs (geocoding indexes)
- i) .atx (attribute index)
- j) .shp.xml (metadata in xml)
- k) .cpg (code page)

2. For MapInfo application software:

- a) .dat (attribute data)
- b) .tab (MapInfo table, stores types of data)
- c) .id (stores links to graphic and database information)
- d) .map (stores graphic and geographic information)
- e) .ind (index files)

3. For other GIS systems: provide native files.

- c. Map data geocoded to a standard available coordinate system;

- d. Map data associated to latitude and longitude coordinates without limits placed on decimal accuracy; and
- e. Map Layers (either separate object layers, or in layers with each object having attributes defining the item's entity type and attributes)
 - 1. Track detail
 - a) Rail stations and/or nodes (an entity with all attributes)
 - b) Rail segments and/or links between nodes (an entity with all attributes)
 - c) Siding (an entity with all attributes)
 - d) Grade (an entity, or attributes associated to track)
 - e) Curves (an entity, or attributes associated to track)
 - f) Mileposts (an entity, with a unique identifier, milepost name, milepost code, latitude and longitude coordinates with no limits on geocoded coordinate decimal values) that match the mileposts in the transactional "Event" data provided in response to Request for Production Nos. 14, 15 and 16
 - g) Elevation in feet above sea level per rail node/milepost
 - h) Time tables
 - i) Signals
 - 2. Mileage between track nodes;
 - 3. Land parcels; and,
 - 4. Terminals (including, but not limited to, UP rail yards, Automotive Distribution Facilities, Bulk Transfer Facilities and intermodal facilities).

Request for Production No. 25

Please produce current operating timetables (including special instructions and/or operating rule books), station lists, station books, and track charts (including a legend for the track chart markings) covering UP's rail system. Please provide the requested documents in their native format to the extent available (including all necessary

documentation). If current versions of any of the requested documents are not available, please produce the most recent versions that are available.

Request for Production No. 26

To the extent such information is not produced in response to Request for Production No. 25, please produce track charts and “condensed profiles” (including schematics which provide the number, length, and ownership status (*i.e.*, whether railroad-owned or privately-owned) of the tracks at the origins and destinations), which are applicable to all UP Lines in Nebraska.

Request for Production No. 27

Please produce detailed track diagrams of all tracks in the vicinity of Omaha, Nebraska that are utilized for the interchange of trains between UP and BNSF including, but not limited to, the track layout, the length of each track, the ownership of each track and descriptions of the existing facilities.

Request for Production No. 28

Please produce documents, in a computer-readable format to the extent available, that show the following for UP Lines that make up the OPPD route:

- a. The gradient or grade profile for each line segment;
- b. The elevation and elevation changes (in feet above sea level) for each line segment; and
- c. The locations of all curves on each line segment and all information maintained by UP pertaining to such curves including, but not limited to, the beginning milepost, ending milepost, and degree of curvature.

Request for Production No. 29

Please produce documents which provide the following information for all UP helper services operated on the OPPD route, separately for each helper service location, for each year or partial year 2019 to the present:

- a. “From” and “To” stations and mileposts where trains are actually helped;
- b. Number and type of locomotives (model and horsepower) involved per help;
- c. Round-trip mileage each locomotive travels per help;
- d. Number of total trains helped per crew assignment;
- e. Minimum train size/weight requiring helper service; and
- f. Crew size per crew assignment.

Request for Production No. 30

Please produce documents or data, in a computer-readable format to the extent available, which provide the following information for each UP crew district on the OPPD route:

- a. Each crew district identified by “from” and “to” stations;
- b. The route miles in each such crew district; and
- c. The number of locomotive units per train by train type (i.e., coal, general freight, automotive, intermodal, etc.) and the extent to which the locomotive units are in a distributed power train configuration.

Request for Production No. 31

Please produce documents which contain the following information for UP for each year or partial year 2019 to present:

- a. The location(s) where car inspectors inspect trains moving on the OPPD route, and the location(s) where inspections occur on the UP Lines between Origin and Destination;
- b. A description of the procedures followed by the car inspectors in preparing for and inspecting the trains;
- c. The total number of car inspections per tour of duty (by day of the week) and the total number of trains inspected per tour of duty (by day of the week), separated between coal trains and other than coal trains, for each location identified in response to (a) above;
- d. The number of car inspectors inspecting each train at each location identified in response to (a) above and the time spent by each inspector during each inspection;
- e. The daily or hourly rates of pay including all additives for the inspectors identified in response to (d) above;
- f. The number of trains each car inspector identified in response to (a) above inspects during his tour of duty;
- g. The other duties performed by the car inspectors identified in response to (d) above while on duty and not inspecting trains;
- h. The percentage of time the car inspectors identified in response to (d) above spend inspecting trains versus other assignments during their tour of duty;
- i. The materials and supplies used by the car inspectors at each of the locations identified in response to (a) above;
- j. The purchase price of each item identified in response to (i) above; and
- k. The total number of trains and cars inspected at each location identified in response to (a) above.

Request for Production No. 32

Please produce any studies or analyses conducted by UP from January 1, 2017 to the present which model and evaluate rail operations over all or any part of the UP

Lines in Nebraska using the Rail Traffic Controller (“RTC”) computer model. In addition to the results of such studies or analyses, please produce documents sufficient to show the following information for each study or analysis:

- a. The version of the RTC model utilized in each study or analysis;
- b. All electronic files input into the RTC model including track input files, train input files, Form A and Form B files (or similar files showing track, operating or other outages or failures that affected train operations); and
- c. All electronic files generated as output from the RTC model for each study or analysis.

Request for Production No. 33

Please produce the train list(s) and train profile(s) showing the scheduled horsepower per ton (“HPT”) for all UP trains operating on the OPPD route. If the train list(s) or train profile(s) are not available, please provide other documents sufficient to show the scheduled HPT for the trains identified above.

Request for Production No. 34

Please produce copies of the following documents:

- a. Documents sufficient to show the locomotive tonnage ratings (*e.g.*, horsepower per trailing ton) by line segment for the OPPD route; and
- b. Tractive effort tables or other documents sufficient to show the tractive effort produced by the locomotives used to transport trains through all or any portion of the OPPD route.

Request for Production No. 35

Please produce all records from January 1, 2019 through the present related to UP's use of BNSF locomotives in the provision of service between Origin and Destination.

Request for Production No. 36

Please produce documents, in a computer-readable format to the extent available, sufficient to show the dispatch priority given by UP to each train type (*e.g.*, double-stack, priority intermodal, through, general freight, coal, *etc.*) and, to the extent applicable, special dispatch priority given to any train within a grouping based on train type.

Request for Production No. 37

Please produce documents sufficient to show unplanned track-related and operating-related incidents or outages that affected UP train operations on the OPPD route in 2019-2021 including the cause of the incidents or outages, the duration of the incidents or outages, the location of the incidents or outages, and the train IDs of any trains impacted by the incidents or outages.

Request for Production No. 38

To the extent such information is not produced in response to Request for Production No. 35, please produce documents for each year or partial year 2019 to the present which list by initial and unit number: (a) locomotives used in the OPPD service between Origin and Destination, and in any other coal service between Origin and any destination or used by UP in providing transportation service including switching services,

on UP Lines and yards in Nebraska; and (b) if such locomotives were drawn from a pool(s), all the locomotives in the pool(s) from which the locomotives used in the OPPD or other coal service are drawn.

Request for Production No. 39

Please produce documents, in a computer-readable format to the extent available, which provide the following information for each of the locomotives contained in each of the listings produced in response to Request for Production No. 38, to the extent that the information is in UP's possession or is available to UP upon request:

- a. The locomotive initial and number;
- b. The manufacturer, if purchased;
- c. The lessor, if leased or rented, or provider, if used in run-through service;
- d. Model or type (*e.g.*, SD-40-2);
- e. Horsepower;
- f. Capacity of its fuel tanks (gallons);
- g. Weight;
- h. Date of purchase or lease;
- i. Date first placed into service;
- j. The original cost plus the cost of any additions and betterments;
- k. Financing vehicle (*e.g.*, equipment trust);
- l. Debt rate as a percent;
- m. Financing terms (in years);

- n. Annual depreciation;
- o. Annual depreciation as a percent;
- p. Current salvage value as a percent;
- q. Accrued depreciation;
- r. If leased, the type of lease (i.e., capital, operating, “power by the hour”, etc.);
- s. If a capital lease, the capitalized value of the lease by locomotive or group of locomotives (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- t. If an operating lease, the quarterly, semi-annual, etc., lease payment by locomotive or group of locomotives covering the term of the lease (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- u. If leased or rented under a short-term or “power by the hour” agreement, the minimum annual fixed payment and the use payment (e.g., per kilowatt/hour, per diesel unit mile, etc.) per locomotive, the average annual payment per locomotive, and the annual locomotive unit-miles for each such locomotive, stated separately for coal service and other service; and
- v. The diesel unit-miles traveled each year or partial year from 2019 to the present in all types of service.

Request for Production No. 40

Please produce all lease or rental agreements including all supplements and copies of all billings, applicable to each leased or rented locomotive identified in response to Request for Production No. 38 and Request for Production No. 39.

Request for Production No. 41

Please produce all locomotive maintenance and repair records and/or reports and related documents for each year or partial year 2019 to the present, which provide UP

locomotive maintenance, repair and overhaul expenses by locomotive or locomotive type or series (or by other basis in which records are kept) and the total locomotive unit-miles corresponding to these maintenance, repair and overhaul expenses for the locomotives identified in response to Request for Production No. 38. To the extent that these records and/or reports do not include all locomotive repair, maintenance and overhaul amounts reported in R-1 Schedule 410, please identify those expenses that are not included.

Request for Production No. 42

Please produce all locomotive maintenance agreements including all supplements, attachments, exhibits and schedules, with outside contractors and provide, for each year or partial year 2019 to the present for all locomotives in UP's fleet under such maintenance agreements, (a) the amount paid for each locomotive or by locomotive type in total and broken down by each service performed under the agreement and (b) the number of locomotive unit miles corresponding to the amounts listed above.

Request for Production No. 43

Please produce documents sufficient to show the following information for UP for the most recent 12 calendar months:

- a. The location(s) where locomotives traversing the OPPD route are fueled;
- b. The actual amount of fuel used by the locomotives identified in response to Request for Production No. 38, by individual locomotive;
- c. The total number of diesel unit miles generated by the locomotives for which fuel consumption data was provided in response to (b) above during the same time period used in response to (b) above;

- d. The method by which UP accounts for or records fuel usage for locomotives;
- e. Computer-readable versions (both compiled and non-compiled) including all supporting databases and necessary documentation, of any and all computer programs in UP's possession used to estimate the fuel usage of locomotives; and
- f. The same information for all road and switch locomotives on the UP system in the same format as that given in the responses to (b), (c), and (e) above.

Request for Production No. 44

For the locomotive fueling locations identified in response to Request for Production No. 43, please produce documents sufficient to show the following information with respect to locomotive fueling at each location:

- a. The source(s) of the fuel including the name and location of the vendor(s) who provide the fuel to UP and the refinery(ies) or other location from which the fuel is obtained;
- b. The method and cost of transporting and dispensing the fuel from the refinery(ies) or other locations from which the fuel is obtained to the location where the fueling of locomotives is performed;
- c. The method by which fuel is dispensed into locomotives, *i.e.* from fixed fueling facilities or by direct-to-locomotive (tanker truck) service;
- d. A description of all facilities and equipment (including, but not limited to, fuel storage tanks) at each location where UP has fixed fueling facilities; and
- e. The cost per gallon paid (including any applicable taxes) on a weekly basis in 2020, and in 2021 to the extent available.

Request for Production No. 45

Please produce copies of all contracts/agreements with third parties related to the performance of locomotive fueling functions for all road locomotives that are used on the OPPD route.

Request for Production No. 46

Please produce documents, in a computer readable format to the extent available, which show locomotive utilization and locomotive performance (*e.g.*, locomotive unit-miles, locomotive hours running, locomotive hours switching, locomotive hours out-of-service for repairs and locomotive hours stored useable) for each locomotive that UP owned or leased for each year or partial year 2019 to the present and that UP used in providing transportation service on the OPPD route.

Request for Production No. 47

Please produce documents for each year or partial year 2019 to the present which contain the following, in a computer readable format, for each freight car purchased or leased by UP (including freight cars currently on order and privately-owned freight cars leased by UP that maintain the private owner's car initial and number) that UP has in providing transportation service on the OPPD route:

- a. Initial and number;
- b. Manufacturer;
- c. Lessor, if leased;
- d. AAR car type;
- e. Tare weight;

- f. Purchase or order date, if purchased;
- g. Lease or order date, if leased;
- h. Total purchase price, if purchased;
- i. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- j. If leased, the amount and frequency of lease payments;
- k. If purchased, the AFE applicable to each purchased freight car; and
- l. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

Request for Production No. 48

Under *Alternative Methods of Accounting for Railroad Track Structures*, 367 I.C.C. 157, 180 (1983), UP is required to submit a standard “unit of property” that distinguishes between when a certain cost should be expensed or capitalized. Please produce UP’s most recent, STB approved, property units and the supporting information and data for those units.

Request for Production No. 49

Please produce a copy of UP’s rules and instructions pertaining to train handling including, but not limited to, measures for conserving fuel.

Request for Production No. 50

For each year or partial year 2019 to the present, please produce documents which contain the following information (in a computer-readable format, if available) with respect to each shipper-owned and shipper-leased railcar and each intermodal and automotive railcar provided by a third party moving over any part of the OPPD route:

- a. Identification number of the car;
- b. The type of the car;
- c. The length and tare weight of the car (for intermodal and automotive cars only);
- d. The cost to UP for use of the car;
- e. The terms of any mileage allowance agreement covering the car;
- f. Whether the car is subject to a zero-based mileage agreement;
- g. Whether the car hire paid on the car is subject to refund of the payments under certain contractual conditions; and
- h. The year of manufacture of the car.

Request for Production No. 51

Please produce all railcar maintenance agreements with outside contractors including all supplements, attachments, exhibits and schedules, in effect during all or any portion of each year or partial year 2019 to the present, for all the cars on the OPPD route, and documents providing (a) the amount paid for each car or by car or by car type total and broken down by each service performed under the agreement, and (b) the number of car-miles corresponding to the amounts referenced in (a).

Request for Production No. 52

Please produce copies of all contracts/agreements with third parties (including, but not limited to, shippers or receivers) in effect during all or any portion of the period from January 1, 2019 to the present related to the performance of car inspection functions with respect to (a) UP coal trains and (b) other UP trains traversing all or a portion of the OPPD route.

Request for Production No. 53

Please produce the following for all joint ownership, joint facility or joint use agreements including, but not limited to, trackage rights agreements, joint or common ownership agreements and lease agreements, between UP and another rail carrier or other entity applicable to any of the railroad lines and/or facilities on the OPPD route, and that were in effect during all or any portion of the period from January 1, 2019 to the present:

- a. Copies of all agreements (including amendments and supplements);
- b. Copies of all bills and/or payments from 2019 to the present (including all supporting documents and data), for each month, quarter and/or annual period from 2019 to the present; and
- c. Density data and operating statistics (including but not limited to train miles, train hours, locomotive unit miles, loaded car-miles, empty car-miles, net ton-miles, gross ton-miles (both including and excluding locomotives), and number of trains) separately for UP and all other carriers using the facility for each year or partial year for the period from 2017 to the present.

Request for Production No. 54

For each year or partial year 2019 to the present, please produce UP's detailed annual and quarterly Wage Forms A and B that support the summary Wage Forms A and B provided to the STB.

Request for Production No. 55

Please produce documents sufficient to show the applicable wage rates for UP's maintenance of way employees by job classification for each year or partial year 2019 to the present.

Request for Production No. 56

Please provide documents sufficient to show UP's existing maintenance-of-way plan and staffing in Nebraska including maintenance-of-way districts and/or crews employed by UP to maintain the (a) track, (b) signals and communications facilities, and (c) bridges and (d) all other facilities on the OPPD route, the number of UP employees by job classification presently assigned to each maintenance-of-way district or crew on both a permanent and a seasonal basis, and any changes in the maintenance districts, crews, and number and classification of employees that have occurred since January 1, 2019.

Request for Production No. 57

Please produce documents sufficient to show the maintenance-of-way equipment owned or leased by UP whose value per unit exceeded \$5,000 when acquired, and how such equipment is assigned to the respective maintenance-of-way districts identified in response to Request for Production No. 56. In addition, please provide documents sufficient to show the unit costs for such equipment, if purchased, or the annual lease cost if leased, and the annual cost of ownership including information on maintenance and fueling costs during each year or partial year 2019 to the present.

Request for Production No. 58

For maintenance of way and/or construction for the OPPD route performed by contractors for the period from 2019 to the present, please produce copies of all bills for services, documents which contain a description of the line location of the contract repairs and/or construction, and the details of the work performed including labor and materials. If UP does not maintain copies of these documents, produce whatever documents UP does

maintain or have available to it describing the costs incurred by UP and the details of the work performed, in a computer readable form if available (including all necessary decoders or other explanatory documentation).

Request for Production No. 59

Please produce documents sufficient to show the transaction costs incurred by UP, by service unit, for electronic data interchange services with Railinc (or other applicable service providers) during each of the years 2019 to the present.

Request for Production No. 60

Please produce documents for each year or partial year 2019 to the present which provide UP's loss and damage costs and annual tonnage separately for each commodity that UP carries on its system.

Request for Production No. 61

Please produce documents including, but not limited to, tax returns filed with the states and all supporting schedules and attachments, showing the ad valorem taxes that UP paid to the State of Nebraska and in Omaha, Nebraska for each year or partial year 2019 to the present, together with documents showing the total route-miles and total track-miles UP owned or owns in the State for each year 2019 to the present. Please also provide the current ad valorem tax rates which the State of Nebraska and local governments use to assess UP property and how these rates are applied.

Request for Production No. 62

Please produce all documents relating to any contribution by any governmental or quasi-governmental entity (including, without limitation, Amtrak,

CREATE, or other passenger or commuter rail entities) to construction, upgrading, maintenance and/or operating expenses on the OPPD route.

Request for Production No. 63

Please produce an unredacted copy of UP's Positive Train Control ("PTC") Implementation Plan filed with the Federal Railroad Administration as required under 49 C.F.R. Part 236, as well as any amendments or supplements thereto.

Request for Production No. 64

Please produce documents sufficient to show UP's actual costs to implement its PTC program including, but not limited to, all input data to schedules PTC 330, PTC 332, PTC 335, PTC 352B, PTC 410, PTC 700, PTC 710, PTC 710S, PTC 720 and PTC Supplement: Grants of UP's R-1 from 2019 to present. To the extent that these records, reports and databases do not include all cost amount reported in the R-1 Schedules, please identify the expenses that are excluded.

Request for Production No. 65

Please produce copies of the most current land valuation maps for the OPPD route, and all documents (including but not limited to deeds or other instruments of grant or conveyance) related to the parcels identified on those maps.

Request for Production No. 66

Please produce documents sufficient to show all donated rights of way and/or land grants (including easements) obtained by UP and/or UP's predecessors in connection with the construction of any rail lines or facilities located on the OPPD route.

Request for Production No. 67

Please produce all documents related to any sale, appraisal, abandonment or acquisition of land (improved and unimproved) that UP completed on the OPPD route since 2019 including, but not limited to, documents showing the location of the parcel, size of the parcel, the valuation of the parcel by UP, the sale or acquisition price, UP land transaction cost, a description of any improvements to the parcel, the date of sale, and any characteristics of the parcel such as land use, utilities, access and topography.

Request for Production No. 68

Please produce documents sufficient to show the following with respect to grading construction activities undertaken or proposed at any time by UP or its predecessors, or currently ongoing, on the OPPD route:

- a. Number of cubic yards of excavation of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.
- b. Number of cubic yards of embankment of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.
- c. Number of cubic yards of borrow of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.

- d. Grading construction data for each construction specification measured by UP including without limitation, roadbed width, side slope ratio, track center distance, presence of access roads, impact of grading activities on right-of-way width, use of geotextiles, use of water, soil stabilization, and width and depth of side ditches;
- e. Number of route miles, separated between single track main, double track main, triple track main, etc., corresponding to the cubic yard information described in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;
- f. Number of track-miles corresponding to the cubic yards in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;
- g. All of the different types of equipment (and the associated tasks) used to:
 - i. Excavate common earth;
 - ii. Excavate loose rock;
 - iii. Excavate solid rock;
 - iv. Excavate unclassified material; and
 - v. Obtain borrow material.
- h. Linear feet of pipe installed for lateral drainage;
- i. Number of cubic yards of rip-rap placed for the protection of the roadway;
- j. Location, type and quantity of retaining walls;
- k. Construction method including, but not limited to, the number of cubic yards of masonry or other similar material used for retaining walls;
- l. Number of acres cleared;
- m. Number of acres grubbed; and
- n. Number of acres seeded.

Request for Production No. 69

Please produce documents sufficient to show the costs that UP incurred during each year 2019 to the present for the following:

- a. Cost per cubic yard of excavation for:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.
- a. Number of cubic yards of embankment of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.
- c. Cost per cubic yard of borrow for:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.
- d. Cost per cubic yard of rip-rap (installed), separated between material and labor;
- e. Cost for each material used for retaining walls, separated between material and labor;
- f. Gross cost per acre for clearing timber and any credits reflecting the sale of timber;
- g. Cost per acre for grubbing;
- h. Cost per acre for seeding;
- i. Cost per acre for weed spray (including necessary chemicals);
- j. Cost per hour or per mile for brush cutting;

- a. Cost per square yard for geotextile fabric; and
- b. Cost per linear foot for yard drainage facilities.

Request for Production No. 70

Please produce documents sufficient to show culvert/drainage pipe locations (*i.e.*, railroad milepost), size (diameter), length, height of cover, number of tracks crossed, type, and cost of material and installation for each, for the OPPD route.

Request for Production No. 71

Please produce documents sufficient to show the following for construction projects that UP has undertaken since January 1, 2019:

- a. Standard construction project specifications including but not limited to: track structures and designs; bridges; culverts; yard and roadway buildings; fueling facilities; maintenance facilities and waste water treatment facilities;
- b. Whether or not the project was performed “under traffic”, *i.e.*, traffic continued to move through the construction area;
- c. Standard estimating procedures for track construction projects; and
- d. Standard estimating procedures for non-track construction projects.

Request for Production No. 72

Please produce all of UP’s price list books governing prices for construction and maintenance materials (including but not limited to weights of rail from 115 to 141 pounds per yard, turnouts, ties, fasteners, lubricators, plant and field welds, fencing, roadway signs, track geometry cars, hot bearing and dragging equipment detectors, and related tools), or other documents utilized by UP’s engineering personnel for estimating costs of maintenance and construction projects for each year or partial year 2019 to the

present. To the extent that the charges for transportation and delivery of materials are not included in the prices shown, please produce documents sufficient to show such charges for all materials.

Request for Production No. 73

Please produce documents sufficient to show the following information with respect to rail purchased by UP and used on UP Lines in Nebraska for each year or partial year 2019 to the present:

- a. The average cost per linear foot and/or ton by weight of rail for both new and relay rail;
- b. The source of the rail;
- c. The average cost per ton-mile to transport the rail on UP;
- d. The average cost per ton to handle the rail, categorized by the length of and weight of rail including the cost for a specialized rail train if applicable, on UP;
- e. The average cost per ton-mile, by carrier, to transport the rail on a foreign carrier by carrier;
- f. The average cost per ton to handle the rail, categorized by length and weight of rail including the cost for a specialized rail train if applicable, on a foreign carrier by carrier; and
- g. Any haulage agreements between UP and a foreign carrier that applied or could apply to the transportation of rail over either carriers rail lines in Nebraska.

Request for Production No. 74

Please produce documents sufficient to show the following information with respect to ballast or sub-ballast used on UP Lines in Nebraska for each year or partial year 2019 to the present:

- a. The average cost per cubic yard for ballast, by type;
- b. The average cost per cubic yard for the transportation and handling of ballast;
- c. The average length of haul represented by the value(s) in (b) above;
- d. The average cost per cubic yard for sub-ballast, by type;
- e. The average cost per cubic yard for transportation and handling of sub-ballast;
- f. The average length of haul represented by the value(s) in Subpart (e) above;
- g. The names and locations of all quarries supplying such ballast or sub-ballast; and
- h. The unit prices from all quarries listed in response to Subpart (g).

Request for Production No. 75

Please produce bridge lists or other documents detailing location (milepost, division and subdivision), number of spans, type(s) of spans, length of each span, load rating, a description of what is being crossed (*e.g.*, name of body of water, highway or road (including name or number), navigable waterway *etc.*), whether or not it is a movable bridge, whether or not it is in service, type, length, number of tracks, clearance, height, curvature and skew (if any) for all bridges located on the OPPD route.

Request for Production No. 76

For each of the types of bridges identified in the documents produced in response to Request for Production No. 75, please produce documents sufficient to show the standard design for the bridge type and the unit costs (*e.g.*, cost per foot or other

appropriate measure), for single track open deck and ballast deck construction and double track open deck and ballast deck construction, from 2019 to the present.

Request for Production No. 77

Please produce documents sufficient to show the following information related to the construction or replacement, in part or in whole, of each bridge on the OPPD route from 2019 to the present:

- a. The location of the bridge, by line segment and milepost;
- b. An itemized listing of the bridge components being constructed or replaced (including quantities);
- c. The estimated cost, by component, for each of the components (identified in response to Subpart (b) above) being constructed or replaced;
- d. The actual cost, by component, for each of the components (identified in response to Subpart (b) above) being constructed or replaced;
- e. The design for each bridge;
- f. The total cost of the bridge;
- g. The total length of the bridge;
- h. Whether the project was new construction or rehabilitation;
- i. Whether or not the project was performed “under traffic”, i.e. traffic continued to move through the construction area;
- j. All costs incurred as a function of performing the project under traffic, e.g., flagging costs, temporary signal costs, realignments, delays and all other costs that would not be incurred if the bridge was new construction;
- k. The construction documents and contracts for the construction and/or rehabilitation; and

- l. Any cost sharing between UP and another entity.

Request for Production No. 78

Please produce documents (in computer readable format to the extent available) that identify and list the location and type of communications and signals systems/facilities used for train operations by milepost, division, and subdivision on the OPPD route.

Request for Production No. 79

Please produce documents listing the items, the cost of each item and the quantity of each item installed on UP's system related to the construction and (during each year or partial year 2019 to the present) operation of the centralized traffic control signal system(s) or any other traffic control system in use on the UP system (including hot bearing and dragging/failed equipment detectors). Please indicate whether the costs include additional services such as installation, design planning, electrical drops for utilities, and/or transportation. If the costs for additional services are not included, please provide each cost separately for each additional service.

Request for Production No. 80

Please produce documents containing the following information for each UP communications site (defined as a location with a microwave tower, a land mobile radio ("LMR") tower, a tower used for both purposes, or a location where communications equipment (microwave or LMR) is located that does not include a tower) located on or near the OPPD route:

- a. The number of microwave towers, LMR towers, combined towers, or other communications equipment location (shown separately for each category);
- b. The latitude and longitude coordinates of each tower or other communications equipment location;
- c. The height of each tower in (i) feet above the ground and (ii) feet above sea level;
- d. The number of microwave antennae on each tower and the status of each antenna (*i.e.*, whether it is operational);
- e. The number of LMR antennae on each tower and the status of each antenna (*i.e.*, whether it is operational);
- f. The latitude and longitude coordinates of other communications sites that can link via microwave or radio from this site or a topological map of the communication system; and
- g. The acres of land owned or leased by UP for these sites and the cost of purchase or lease.

Request for Production No. 81

Please produce documents sufficient to show:

- a. UP's specifications for the construction of communications sites (as defined in Request for Production No. 78 above);
- b. The total number of UP route miles on UP Lines in Nebraska that are covered by microwave communications;
- c. The total number of UP route miles on UP Lines in Nebraska that are not covered by microwave communications;
- d. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the microwave radio and/or land mobile radio communications system(s) on the UP system during each of the years 2019 to the present; and

- e. The annual spot maintenance costs incurred by UP for the microwave and/or land mobile radio tower communications system per tower and by device type, on the OPPD route.

Request for Production No. 82

Please produce documents sufficient to describe the specifications, functions, operation and costs, during each year or partial year 2019 to the present, of any communications system equipment other than microwave towers used to transmit data from devices such as mobile two-way radios, portable (hand-held) two-way radios, FEDs, AEI scanners and EOTDs across all or any part of the UP system(s).

Request for Production No. 83

Please produce documents sufficient to show:

- a. The locations and quantities of fiber optic cabling installed on UP rights-of-way on UP Lines in Nebraska;
- b. The bandwidth capacity of the fiber optic cabling identified in Subpart (a);
- c. The entity that owns and operates the fiber optic cabling identified in Subpart (a);
- d. The costs to UP, if any, for installing the fiber optic cable identified in Subpart (a);
- e. Whether UP is permitted to use the fiber optic cable identified in Subpart (a);
- f. The amount, if any, that UP pays the carriers for use of the fiber optic cable identified in Subpart (e); and
- g. The revenues or other payments that UP receives from the carriers for the use of the railroad's right-of-way for fiber optic cable.

Request for Production No. 84

If UP utilizes the fiber optic cable(s) identified in response to Request for Production No. 83, please provide documents sufficient to show:

- a. The total number of UP route miles on UP Lines in Nebraska that are covered by fiber optic communications;
- b. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the fiber optic communications system on the UP system(s) during each of the years 2019 to the present; and
- c. The annual spot maintenance costs incurred by UP for the fiber optic communications system and by device type, on UP Lines in Nebraska.

Request for Production No. 85

Please produce documents sufficient to show the location, size (including square footage, number and lengths of tracks, capacity, etc.), components (such as equipment and machinery), and original cost of each facility located on the OPPD route that falls within each of the following categories of facilities:

- a. Roadway maintenance facilities;
- b. Locomotive maintenance facilities;
- c. Locomotive servicing facilities (including fueling facilities);
- d. Administrative facilities;
- e. Rail yards;
- f. Dispatch centers;
- g. Freight car repair and maintenance facilities;
- h. Scales;

- i. Wastewater treatment plants;
- j. Landslide/rockslide detection/protection devices or facilities;
- k. Snowshed facilities; and
- l. Train, yard and engineman facilities.

Request for Production No. 86

For each year or partial year 2019 to the present, please produce documents which contain the following information with regard to UP highway and railroad at-grade crossings:

- a. The various sizes, compositions and costs per linear foot (installed) of a one-lane private road crossing over a single line of track;
- b. The various sizes, compositions and costs per linear foot (installed) of a two-lane public highway crossing over a single line of track;
- c. The various sizes, compositions and costs per linear foot (installed) of a four-lane public highway crossing over a single line of track;
- d. The installed cost of signs for a private road crossing (if necessary);
- e. The installed cost of signs for a public highway crossing;
- f. The installed cost of each of the different types of protective devices identified in the response to Subpart (g) below;
- g. A list identifying each component required for an automatic type interlocking (assuming a diamond crossing);
- h. The cost of each of the components identified in response to Subpart (g) above and the cost of installation for each year or partial year 2008 to the present;
- I. The costs for a 16-foot and 24-foot cattle guard and the cost of installation for each year or partial year 2019 to the present; and
- j. Any additional costs incurred.

Request for Production No. 87

Please produce documents in a computer readable format, to the extent available, containing the following information for each UP at-grade and grade-separated road crossing on the OPPD route:

- a. Geographic location, *i.e.*, city, county and state;
- b. Rail location, *i.e.*, railroad, line name and milepost;
- c. Whether public or private;
- d. Name of road crossed;
- e. Width;
- f. Length;
- g. Type of construction;
- h. Number of tracks;
- i. Type of protective devices;
- j. Date of initial installation at the location;
- k. Total cost of the initial installation and the amount borne by UP, if any; and
- l. Identification of the party responsible for ongoing maintenance of any such structures.

Request for Production No. 88

For each grade-separated, highway crossing identified in Request for Production No. 86, please provide documents sufficient to show, separately for each crossing:

- a. The total construction cost of the highway crossing;
- b. The percentage of the total cost incurred by UP; and
- c. Any monies received by UP from any other party to compensate UP for the use of the crossing including, but not limited to, maintenance and easement payments.

Request for Production No. 89

Please produce documents sufficient to show the location, linear feet, and type of fencing (*e.g.*, snow fence) for all fencing currently in place on the OPPD route.

Request for Production No. 90

Please produce all documents relating to any contribution by any governmental or quasi-governmental entity (including, without limitation, Amtrak, CREATE, or other passenger or commuter rail entities) to the construction or maintenance of at-grade or grade separated crossings of the OPPD route.

Request for Production No. 91

Please produce documents sufficient to show the following for each construction and rehabilitation project which exceeded \$2,000,000 in cost and was completed by UP, or an outside contractor acting on UP's behalf, since January 1, 2019:

- a. The date the project was started;
- b. The date the project was completed;
- c. Whether the project was new construction or rehabilitation;
- d. Whether or not the project was performed "under traffic", *i.e.*, traffic continued to move through the construction area;
- e. A complete copy of the Authorization For Expenditure ("AFE") and description of all columns and data contained with the AFEs;

- f. A complete copy of the Roadway Completion Report or any successor document;
- g. All invoices underlying each AFE and/or Roadway Completion Report;
- h. Engineering and/or construction plans;
- i. Progress reports;
- j. Photographs, if available, and
- k. Construction contracts.

Request for Production No. 92

Please produce documents including, but not limited to, AFEs, construction plans, engineering estimates, bid tabs, contractor invoices, and construction specifications, for any projects that a carrier other than UP has undertaken on the OPPD route for which UP paid for some or all of the project cost since 2019.

Request for Production No. 93

Please provide documents identifying each electrical connection in Nebraska that is used to provide power to devices including, but not limited to, the CTC system and other signal devices, hot box detectors, failed equipment detectors, powered road crossings, warning devices and power switches, and provide the following for each such connection:

- a. The location of the connection by line segment and milepost;
- b. The source of the electricity;
- c. The amount UP paid for each connection and the date; and
- d. UP's costs for each billing period from 2019 to the present.

Request for Production No. 94

Please produce documents (in computer readable format to the extent available) that depict individual tracks, connections to the main line, turnouts, communications, signals and elevations for all yards on the UP system which are located on the OPPD route.

Request for Production No. 95

Please produce all inflation and/or rail cost adjustment estimates or calculations in UP's possession or that UP prepared or caused to be prepared or purchased for each year or partial year 2019 to the present including, but not limited to, any estimates relating to:

- a. The cost of acquiring equity;
- b. The cost of acquiring debt;
- c. General expenses including, but not limited to, asset, equipment, materials and supplies, fuel and labor expense;
- d. Railroad productivity including, but not limited to, commodity-specific productivity, asset productivity and expense productivity;
- e. Gross Domestic Product/Implicit Price Deflator;
- f. Producer Price Index - All Commodities;
- g. The U.S. Department of Energy's U.S. average price of Retail On-Highway Diesel Fuel; and
- h. Land values along or adjacent to UP's right of way for UP Lines Nebraska.

Request for Production No. 96

Please provide documents related to the amount of Bonus Depreciation claimed by UP separately for 2017, 2018, 2019, 2020, and 2021 on UP's Federal Tax Returns in Schedule 4562. The amount should be separated by asset class and include the historical cost recorded for the assets related to the claimed bonus depreciation including all schedules and worksheets showing the calculation and development of bonus depreciation allowed under the Economic Stimulus Act of 2008, the American Reinvestment and Recovery Act, the American Taxpayer Relief Act and the Tax Increase Prevention Act.

Request for Production No. 97

Please provide copies of UP's 2017, 2018, 2019, 2020, and 2021 State income tax return for Nebraska including all State tax credit worksheets.

Request for Production No. 98

For each intermodal terminal, Automotive Distribution Center, bulk transfer or yard facility located on UP Lines in Nebraska (as identified in response to Interrogatory No. 5), please provide the following:

- a. Documents containing descriptions of the existing facilities;
- b. Documents showing the track layout, the length of each track and the ownership of each track;
- c. Copies of all agreements (including amendments and supplements) between UP and any other entity pertaining to services provided by such entity and charges incurred by UP for such services from 2019 to the present;

- d. Copies of all invoices, bills, etc. (including all supporting documents and data) received by UP for services provided from 2019 to the present;
- e. Document sufficient to show the services that UP or any other entity provides at each facility;
- f. Documents sufficient to show the components (e.g., land, track, specific buildings, loading or unloading facilities, etc.) that are owned and/or operated by UP or by any other entity. In the event that an entity other than UP owns and/or operates any identified facility, please produce documents sufficient to show any applicable lift or other charges incurred by UP for such services; and
- g. Documents sufficient to show the security procedures and measures employed and the entity responsible for providing and paying for security.

Request for Production No. 99

For each yard identified in Interrogatory No. 5, please produce documents sufficient to show:

- a. The type of yard, (i.e., electronically controlled hump yard or flat switch yard);
- b. The number of shifts operated at each yard, and the average number of cars handled over each yard per day;
- c. The yard layout, yard signaling, yard switching, and the yard connection to mainline track;
- d. The average number of hazardous material cars handled at each yard on a daily basis that by-pass the hump;
- e. The scheduled switch crew assignments on a daily basis (including the name or designation of each assignment) and the respective duties of each assignment (e.g., switching job, bowl job, hump job, industrial job, etc.);
- f. For each of the switch assignments identified in response to subpart e above, the typical number of switch crew members and the number and type of locomotives assigned to each switch service; and the

typical number of hours worked by switch crews in performing their assigned tasks;

- g. For each individual industrial switch job identified in response to part (e), above:
 - i. The name or designation of each individual industrial switch job;
 - ii. The number of crew members assigned to each identified industrial switch job;
 - iii. Number and type of locomotives assigned to each identified industrial switch job;
 - iv. The industries served by each identified industrial switch job; and
 - v. The frequency of service of each identified industrial switch job.
- h. For each Local Train, that originates or terminates in each of the yards:
 - i. UP's train identification or designation of each Local Train;
 - ii. The number of crew members assigned to each identified Local Train;
 - iii. The number of loaded and empty cars assigned to each Local Train;
 - iv. The trailing length of each identified Local Train;
 - v. The trailing weight of each identified Local Train;
 - vi. The number and type of locomotives assigned to each Local Train;
 - vii. The route of service for each identified Local Train, and if the Local or Road Train is a turn crew or straight-away crew;
 - viii. The industries served by each identified Local Train; and
 - ix. The frequency of service of each Local Train.

Request for Production No. 100

For all locations on the OPPD route where UP interchanges railcars and/or trains with another railroad, please provide documents that:

- a. Identify the location of the interchange (by milepost and/or yard name);

- b. Describe the interchange procedures at each location;
- c. Identify the tracks (and length of each track) used for interchange purposes; and
- d. Identify the ownership of each track used for interchange purposes.

Request for Production No. 101

For each track construction project that UP has undertaken since 2019 to the present, provide documents showing the following:

- a. How the disposal of excess excavation quantities was handled; and
- b. All costs associated with the disposal of such excess excavation quantities.

Request for Production No. 102

Please produce documents sufficient to show the amount of annual depreciation expense shown in Column (c) of UP's 2019 and 2020 Schedule PTC 335, Accumulated Depreciation – Road and Equipment Owned and Used that is associated with bonus depreciation allowed under the American Tax Payer Relief Act, including any supporting schedules.

Request for Production No. 103

Please provide documents related to the amount of dividends paid from affiliated companies as shown in UP's Annual Report Form R-1, Schedule 210, Line 25(a) separately for years 2017, 2018, 2019 and 2020. The amounts should be separated by the affiliated companies paying the dividends in the respective years.

Request for Production No. 104

Please produce for each year or partial year 2019 to the present documents (in a computer readable format) which show for each UP individual locomotive engineer, conductor, dispatcher and equipment inspector, the number of shifts worked per year, their length of employment, and their annual compensation.

Request for Production No. 105

Please produce documents sufficient to show the applicable wage rates for UP's maintenance of way employees by job classification for each year 2019 to the present.

Request for Production No. 106

Please provide any studies or databases showing dwell times in yards for shipper provided and foreign cars.

Request for Production No. 107

Please provide a copy of any UP operating rules related to the special handling of hazardous materials (provide the requested information by class of hazardous material) including, but not limited to, rules related to:

- a. Placement of cars containing hazardous materials in a train;
- b. The number and location of buffer cars required, if any, when handling hazardous materials in trains; and
- c. Special routing instructions for trains containing hazardous materials.

Request for Production No. 108

For each UP rail yard referred to in Interrogatory No. 5, please produce documents sufficient to identify switch crew assignments, hump crew assignments, Local

Train assignments, the number of cars handled over each hump yard per day and the number of hazardous material cars handled at each hump yard per day which by-pass the hump operation at each yard.

Request for Production No. 109

For any company other than UP that provides the development, implementation and/or maintenance of computer systems, software and associated documentations for the day-to-day operations of UP, please produce documents sufficient to show the services outsourced, the fees paid for the outsourced services, and the analyses which developed the estimated and/or actual savings realized by UP and each of its subsidiaries from such outsourcing.

Request for Production No. 110

Please produce all documents related to any internal assessments made by or for UP as to whether the company meets the Revenue Adequacy Criteria. To the extent that this Request is burdensome, counsel for OPPD is willing to confer to determine if the burden can be reduced, particularly by producing representative documents in various categories.

Request for Production No. 111

Please provide documents sufficient to show the COE and COC values utilized for the time periods specified in Interrogatory Nos. 11 and 12, and the purpose for which those values are utilized. To the extent that this Request is burdensome,

counsel for OPPD is willing to confer to determine if the burden can be reduced, particularly by producing representative documents in various categories.

Request for Production No. 112

Please provide documents sufficient to show in detail the methodology used for calculating the COE and COC for the time periods specified in Interrogatory No. 11. To the extent that this Request is burdensome, counsel for OPPD is willing to confer to determine if the burden can be reduced, particularly by producing representative documents in various categories.

Request for Production No. 113

Please produce documents sufficient to show all revenues, fees, rents or other compensation received by UP in 2019 and 2020 from any source that was related to a third party's use or exercise of subsurface rights below any UP right-of-way on the OPPD route.

Request for Production No. 114

Please describe the manner in which UP currently provides the transportation services for OPPD traffic moving between BNSF's Gibson Yard Interchange and NOPS including unloading time, crew assignments, number of locomotives, locomotive ownership (UP or BNSF locomotives used to move coal from Gibson Yard Interchange to NOPS) and involved crew and locomotive times.

Request for Production No. 115

Please produce copies of any locomotive sharing agreements between UP and BNSF.

Request for Production No. 116

Please identify the following for each OPPD train that UP switched from the Gibson Yard Interchange to NOPS and back to the Gibson Yard Interchange for years 2020 to the present:

- a. Date and time UP switch crew arrived at Gibson Yard Interchange to get the loaded train;
- b. Date and time UP switch crew arrived at NOPS with loaded train;
- c. Date and time UP switch crew left NOPS with empty train;
- d. Date and time UP switch crew left Gibson Yard Interchange after dropping off the empty train; and
- e. The locomotive initial and number for each locomotive used.

Request for Production No. 117

Please provide all switching studies (logs and summaries) or other documents which relate in whole or in part to including data relating to or derived from, UP switching of cars carrying coal between the Gibson Yard Interchange and NOPS in possession of UP. This request includes any internal analyses by UP of the application of the “SSW Compensation” formula to the calculation of the switch tariff rate in the Circular.

Request for Production No. 118

Please provide the following information:

- a. Actual maintenance of way structures expenditures for the trackage traversed by the OPPD trains between the Gibson Yard Interchange and NOPS; and
- b. The service units, e.g. gross ton-miles, moving over the Gibson Yard Interchange to NOPS line.

Request for Production No. 119

Please identify the miles, by ownership, which make up the Gibson Yard Interchange to NOPS line.

Request for Production No. 120

Please describe and provide copies of all crew agreements currently in effect which contain provisions dealing with Omaha, Nebraska switching operations.

Request for Production No. 121

Please provide the following information in a computerized format, to the extent possible, for each UP yard or road crew that handled OPPD trains between the Gibson Yard Interchange and NOPS for each of the years 2020 to present:

- a. The date;
- b. Number of engine men (including trainees);
- c. Number of trainmen (including trainees);
- d. Number and job title of any other employee (including trainees);
- e. Place, time, and date first went on duty;
- f. Place, time, and date finally went off duty;

- g. Train number;
- h. Locomotive numbers (including slave units), and number of unit train;
- i. Number of cars in train;
- j. Actual miles run;
- k. Kind of service (e.g., local, through, switching, deadheading);
- l. Service class for each employee (provide definition of codes used);
- m. Run number (provide definition of codes used);
- n. Time claimed for each employee;
- o. Straight time actually worked, for each employee;
- p. Straight time paid for, for each employee;
- q. Overtime, for each employee;
- r. Constructive codes and related miles, for each employee (provide definitions of codes used and all different payment rates for each of the years 2017 to present;
- s. Rate codes of each employee (provide definitions of codes used and all different wage rates for each of the years 2017 to present;
- t. Payments for meals and lodging for each employee;
- u. Any remarks written on time slips; and
- v. Whether those employees performed any service per shift other than that involved in the transportation of the OPPD trains and, if so, a description of such other service.

If any of the foregoing information is not available in a computerized format, provide copies of the specific time slips (if information appears on the back of the time slips,

then that data should also be copied), together with explanations and definitions of any codes appearing thereon and each different wage rate and payment scale for each of the years 2020 to present.

Request for Production No. 122

Please provide all data on, or a copy of, any yard reports, delay reports, conductor's reports, dispatcher's sheets or other documentation identifying yard activities for each crew handling each of the trains moving from Gibson Yard Interchange to NOPS, together with explanations and definitions of any codes appearing thereon.

Request for Production No. 123

Please identify all agreements pertaining to Omaha, Nebraska to which UP is a party with other rail carriers, and supplements thereto, under which UP purchases the services of and/or compensates such other carrier(s) for the use of locomotives, crews, dispatching services, trackage or other facilities. Provide a copy of each agreement including all supplements.

Request for Production No. 124

Please identify the frequency that UP uses:

- a. UP locomotives to handle the OPPD traffic between the Gibson Yard Interchange and the NOPS; and
- b. BNSF-provided locomotives to handle the OPPD traffic between the Gibson Yard Interchange and the NOPS.

Request for Production No. 125

Please identify all written agreements covering movements on which UP locomotives are used on trains traversing non-UP owned lines and/or non-UP owned locomotives are used on the trains traversing lines of UP for movements over the Gibson Yard Interchange to NOPS line. Please provide a copy of all agreements (including supplements and amendments) covering these movements.

Request for Production No. 126

For these section of the agreements identified in Request for Production No. 125 that covers compensation between the parties, please provide the amount of compensation or equalization by component, e.g., fuel, maintenance, servicing, etc., and the service units covered by the compensation, e.g., horsepower hours, for each of the years 2019 to present and the basis for computing the compensation by component including, but not limited to, studies used in determining the basis of compensation. Please provide a copy of correspondence, bills, etc., relating to each agreement.

Request for Production No. 127

For all agreements covering locomotives owned by one carrier and used on another carrier's lines and not covered by Request for Production No. 125 agreements, provide the amount and basis including, but not limited to, identification of studies used in determining the basis, of compensation, for the using carrier's compensation to the owning carrier for:

- a. Use of the locomotive;
- b. Fuel consumed while on using carrier's line;

- c. Maintenance of the locomotive(s);
- d. Servicing of the locomotive(s); and
- e. Other.

Request for Production No. 128

Please provide a copy of correspondence, bills, etc., relating to each agreement identified in response Request for Production No. 127 above.

Request for Production No. 129

Please provide all fuel usage documents, reports, analyses and estimates (as well as estimation methodologies) including fuel quantities and the associated service units, for any or all of the locomotives used to handle the OPPD trains, for the years 2019 to the present.

Request for Production No. 130

Please provide the following for each valuation section traversed by the train(s) between the Gibson Yard Interchange and the NOPS:

- a. A description by milepost and station name of the properties encompassed by each valuation section (as of December 31st for each of the years 2019 through 2021);
- b. A description by milepost and station name of the portion of the valuation section identified in response to Request for Production No. 130(a) that is traversed by the OPPD traffic (as of December 31st for each of the years 2019 through 2021);
- c. Gross values by STB property account included within each valuation section identified in response to Request for Production No. 130(a) (as of December 31st for each of the years 2019 through 2021);
- d. Accumulated depreciation by STB property account for all properties included within each valuation section identified in response to

Request for Production No. 130(a) (as of December 31st for each of the years 2019 through 2021);

- e. Gross values by STB property account of only those properties used by the OPPD traffic for each valuation section identified in response to Request for Production No. 130(a) (as of December 31st for each of the years 2019 through 2021);
- f. Accumulated depreciation by STB property account for all properties used by the OPPD traffic for each valuation section identified in Request for Production No. 130(a) (as of December 31st for each of the years 2019 through 2021);
- g. Total gross ton-miles of cars and contents and gross ton-miles of locomotives and cabooses traversing the entire valuation section for each valuation section identified in response to Request for Production No. 130(a) (as of December 31st for each of the years 2019 through 2021); and
- h. For each valuation section identified in response to Request for Production No. 130(a) where the properties used by the OPPD traffic are less than the total properties within the valuation section, total gross ton-miles of cars and contents and gross ton-miles of locomotives and cabooses for each valuation section identified in response to Request for Production No. 130(a) (as of December 31st for each of the years 2019 through 2021).

Request for Production No. 131

Explain how loaded cars that are switched from a railroad to the UP are categorized in the Report of Freight Commodity and Statistics (Form QCS) and in Schedule 755, Railroad Operating Statistics to the Annual Report Form R-1 filed with the Surface Transportation Board.

Request for Production No. 132

Please provide a copy of UP's technical specifications for construction and/or maintenance of industrial trackage.

Request for Production No. 133

Please produce all documents from 2007 to the present prepared by UP personnel or consultants retained by UP relating to any possible transportation of coal to NOPS involving water, truck, conveyor belt or other non-rail modes.

Request for Production No. 134

Please produce all documents from 2007 to the present relating to the feasibility of rail construction which would directly connect NOPS to the track of the BNSF in the vicinity of Omaha, Nebraska.

Request for Production No. 135

For the years 2016 to the present, produce all documents including, but not limited to, studies, analyses, reports, or projections prepared by UP personnel or consultants retained by UP relating to:

- a. The amount of power generated by OPPD's electrical generating stations;
- b. The amount of power purchased and sold by OPPD; and
- c. The economic feasibility of OPPD increasing power production at one of its power stations and decreasing power production at another station and the effect of such increases or decreases on the switching charge assessed by UP.

Request for Production No. 136

For the years 2007 to the present, please produce all documents including studies, analyses or projections prepared by UP personnel, or consultants retained by UP, relating to the ability of gas, nuclear power, or other fuels to displace coal from the Powder River Basin in Wyoming as the fuel utilized by electric utilities to produce electricity.

Request for Production No. 137

Please produce any studies, analyses and other documents in UP's possession relating to any evaluation by or for UP of the rate included in the Circular governing the OPPD move between Origin and Destination.

Request for Production No. 138

Please produce all data, analyses and other documents in UP's possession relating to any sales of UP railroad lines in the past 10 years.

Respectfully submitted,

/ss/ Thomas W. Wilcox

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Dated: July 22, 2022

*Attorneys for Omaha Public Power
District*

**BOARD OF DIRECTORS**

Action Item

August 16, 2022

ITEM

Power with Purpose Reliability – North Omaha Station Extension

PURPOSE

Board of Directors Approval to Defer North Omaha Station Refuel and Retirement Dates

FACTS

1. The Board of Directors adopted Resolution No. 6006 on June 19, 2014, and Resolution No. 6122 on June 16, 2016, which direct the planned retirement of North Omaha Station (NOS) Units 1, 2 and 3 and the refueling of NOS Units 4 and 5 from coal to natural gas only, by the end of 2023.
2. On November 14, 2019, the Board adopted Resolution No. 6351, which authorizes the engineering, procurement and construction of the Power with Purpose solar and natural gas generation assets. These solar and natural gas generation assets are required to maintain system reliability and resiliency, serve growing customer load, and retire or refuel aging generation assets at the North Omaha Station.
3. The Power with Purpose natural gas generation assets, designated as Turtle Creek and Standing Bear Lake Stations, were scheduled to come online in fully accredited capability pursuant to Southwest Power Pool standards by the end of 2023, enabling the retirement and refueling of the NOS units.
4. Due to challenges with the federally-regulated generation interconnection process, supply chain, and other construction-related impacts to the Power with Purpose project, the District has experienced a delay in bringing online the Power with Purpose natural gas generation assets in fully accredited capability.
5. In accordance with the Board's Strategic Directive 4, addressing system reliability, and to maintain compliance with applicable federal reliability standards and assure the continued reliability and resiliency of the OPPD system, Management of the District has determined that it is necessary and prudent to extend the retirement of NOS Units 1, 2 and 3 and delay the refueling of Units 4 and 5 until the Power with Purpose natural gas units are able to generate electricity, have executed the required agreements and completed any potential required infrastructure or other obligations set forth in both the Generation Interconnection Agreement and Transmission Service Agreements and are able to operate in an unconditional, fully accredited capability.
6. The District will expand partnerships with interested customers to make significant and incremental investments in Demand Side Management programs to mitigate its short term energy and capacity requirements.

ACTION

Board of Directors approval of an extension to the retirement of North Omaha Station Units 1, 2, and 3 and the refueling to natural gas of North Omaha Station Units 4 and 5 until the District's Standing Bear Lake Station and Turtle Creek Station, currently under construction are completed, able to achieve full accreditation pursuant to achieving both the required executed agreements as well as satisfying all requirements of the Southwest Power Pool for generation interconnection and transmission service.

RECOMMENDED:

DocuSigned by:



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Brad Underwood

Vice President – Systems Transformation

APPROVED FOR BOARD CONSIDERATION:

DocuSigned by:



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L. Javier Fernandez

President and Chief Executive Officer

BRU:mfh



Power With Purpose: Reliability / North Omaha Station Recommendation

August Committee Meeting

August 16, 2022

Agenda

- June 2022 Board Committee Meeting Recap
- Customer Outreach & Feedback Summary
- Response to Customer Feedback
- Recommendation



June 2022 Board Committee Meeting Recap

Power with Purpose: Reliability Update

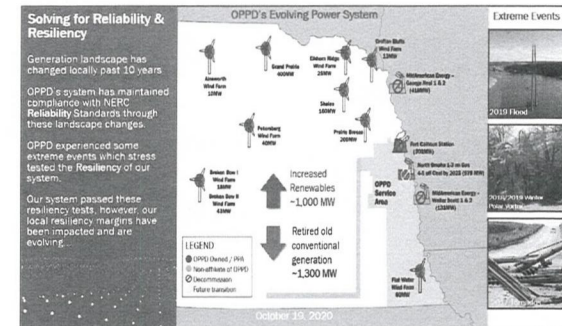
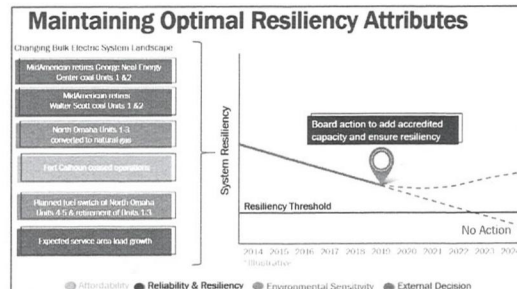
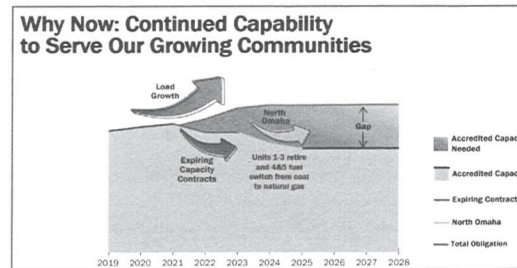
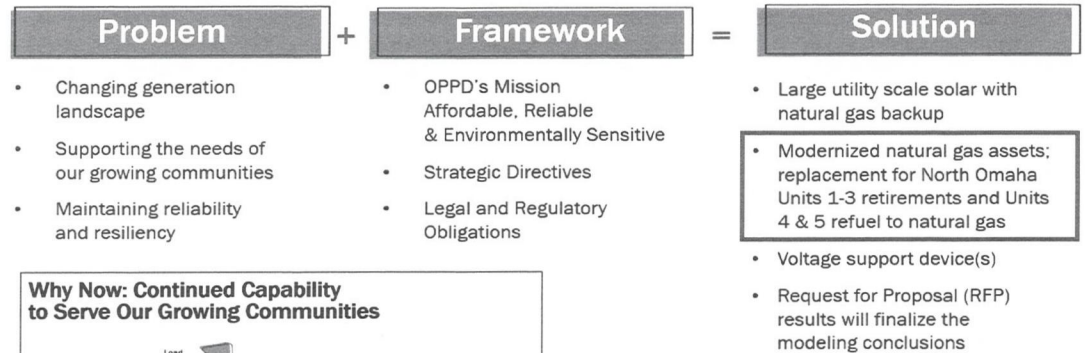
Power With Purpose

Background – Project Overview

- Power with Purpose (PwP) identified the need for both new natural gas and solar generation balancing affordability, reliability and environmental sensitivity
- The PwP projects:
 - Allow for the planned retirement of North Omaha (NO) Units 1-3 and refuel of NO Units 4 & 5 from Coal to Natural Gas
 - Facilitates large load growth
 - Maintains critical and historical reliability & resiliency
- Creates a scenario where a significant amount of bulk generation changes are set to occur where the coordination of “in service” dates is critical for successful project outcomes and maintaining system reliability & resiliency

Material from October 2019 OPPD Public Board Meeting

Working Towards Solutions



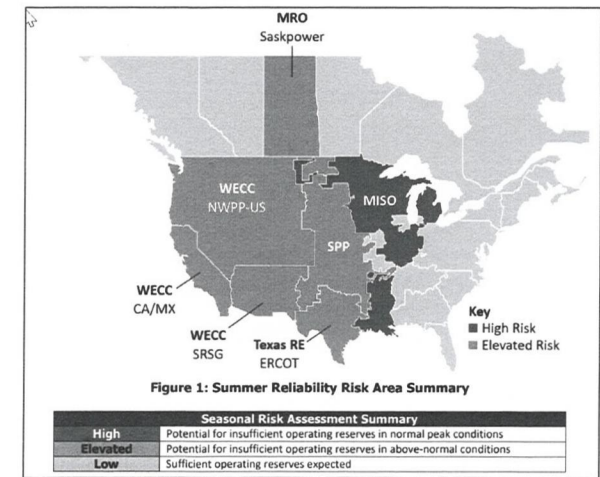
Industry Events & Challenges

- **Changing Resource Mix** continues to remain the North American Electric Reliability Corporation's (NERC) top **Grid Reliability Risk** – growing concerns for potential of large scale blackouts
- **Solar generation challenges** – federal investigation into solar panel imports and zoning challenges for siting solar causing significant delays
- **Regulated Grid Interconnection Study Backlogs** - Federally regulated Generation Interconnection (GI) request evaluation study process is severely backlogged across entire country causing major multi-year delays in interconnecting new generation to the 'open access' transmission grid

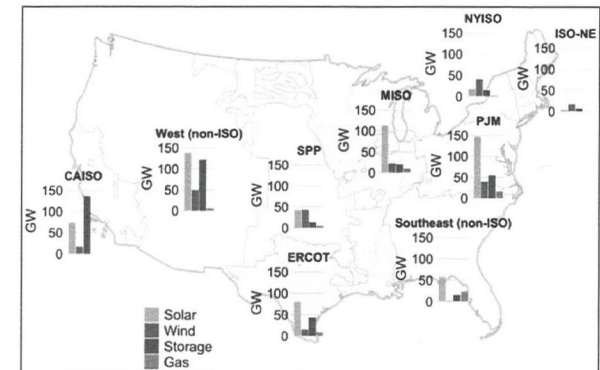
Impacts on Industry

- As a result of these industry challenges, there are numerous examples of electric utilities across the country deferring conventional generation retirement plans and generation expansion plans in order to maintain grid reliability and resiliency

NERC's 2022 Summer Resource Adequacy Assessment



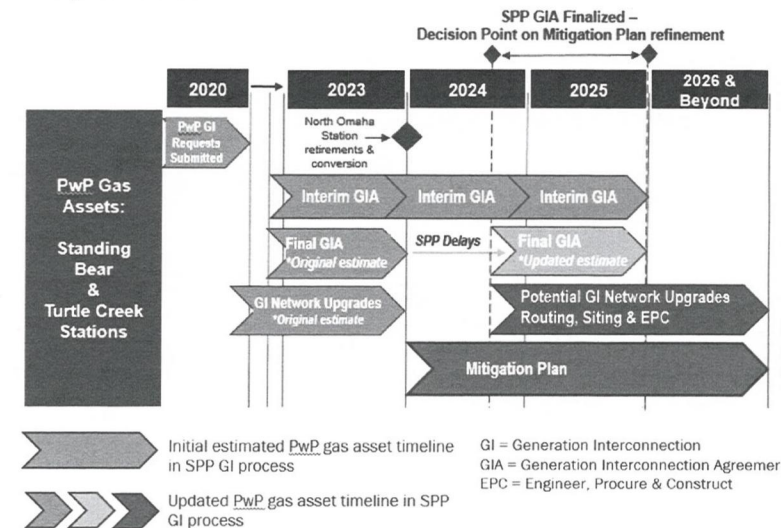
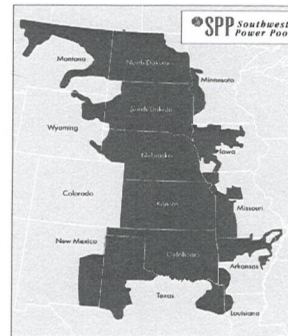
Regional Generation Interconnection Request Queues:
Multi-Year Study Backlogs¹



¹ Berkeley Lab - Queued Up: Characteristics of Power Plants Seeking Transmission Interconnection As of the End of 2020, May 2021

Industry Challenges Impact on Power with Purpose

- North Omaha Station (NOS) unit retirements and fuel conversion from coal to natural gas were originally targeted by end of 2023, and Power with Purpose (PwP) generation assets were largely planned to be in service prior to these NOS changes occurring
- Regulated Generation Interconnection (GI) multi-year study backlog poses most significant risk and impact to the in-service dates for all of the PwP gas and solar generation
 - OPPD is part of the Southwest Power Pool (SPP) Regional Transmission Organization which is responsible for overseeing the regulated grid interconnection process in this region
 - Similar to every region across the country, SPP's GI process is significantly backlogged and delayed which is impacting our PwP generation in-service dates
 - Interconnection to the grid cannot be denied, but it requires a grid reliability impact study be completed first
- Numerous plans were put in motion to mitigate the federally regulated, SPP administered regional GI study backlog:
 - OPPD submitted PwP generation interconnection requests to SPP in early 2020 and strategically sited those resources to help minimize transmission upgrades
 - Since then, the SPP GI study backlog landscape drastically changed, request processing times doubled and massive regional transmission network upgrade buildout requirements are being identified
 - Interim interconnection service option being pursued for PwP but running into roadblocks based on initial study results provided Q2 2022 and growing concerns with the availability of this short-term annual product year over year
- Despite these mitigation efforts, the backlogged GI process has not been resolved for our PwP generation and a new mitigation plan needs to be considered while our applications are pending evaluation



OPPD Impact of Power with Purpose Delay

Grid Reliability & Resiliency

- Power with Purpose (PwP) generation expansion plan was originally intended to largely be put in service by Fall 2023 to facilitate the North Omaha Station unit retirement / conversions, to support OPPD's growing communities and to maintain reliability & resiliency
- The same industry events and challenges that are impacting generation retirement and expansion plans across the country are also impacting OPPD's plans and causing delays with PwP
- In order to ensure OPPD's Reliability & Resiliency margins are preserved to help prevent large scale blackouts, a mitigation plan for PwP generation delays is recommended to be put in place
- Based on the magnitude of the generation portfolio changes and the local and national challenges, very few options are available

OPPD Impact of Power with Purpose Delay

Options Considered

- Option 1: Retire North Omaha Station (NOS) Units 1-3 and convert NOS Units 4-5 from coal to gas as previously planned by 12/31/2023
 - Beneficial environmental impact of reducing emissions from NOS
 - Voltage stability and import capability would reduce by approximately 60% of current levels leaving the OPPD system degraded and in unacceptable condition susceptible to large scale blackouts
- Option 2: Defer NOS retirement / conversion date for a temporary period until there is certainty for PwP gas generation grid injection and operation
 - Defers reduction of emissions from NOS for a temporary period
 - Maintains grid reliability & resiliency
 - The district will need to make additional investments for extending operation at NOS that are estimated to be less than the market revenues

Recommendation

Mitigation Plan – Extend North Omaha Station for Temporary Period

- To ensure grid reliability & resiliency, extend North Omaha Station (NOS) in its current capability for a temporary period until all conditions and milestones, including but not limited to transmission network upgrade requirements, as set forth in the executed Generation Interconnection and Transmission Service Agreements for Power with Purpose gas generation have been satisfied
 - NOS current capability: Units 1-3 primarily operate on gas and Units 4-5 primarily operate on coal
 - For planning purposes, prepare for extension of NOS in its current capability until 12/31/2026, but the extension could be terminated earlier or extended further pending Southwest Power Pool (SPP) service agreement milestones
 - SPP Transmission Service Agreements and SPP Generation Interconnection Agreements anticipated by 2024-2025
 - Upon issuance of these service agreements, will re-evaluate this NOS extension for potential termination or further extension pending final SPP transmission network upgrade requirements
 - Balance environmental impacts and reliability needs by exploring the possible options to minimize NOS coal unit emissions if system conditions allow along with pursuing interim grid interconnection service for PwP generation
 - Continue advocacy for energy regulatory policy reform for new grid interconnections regionally and nationally
- Expand large customer demand response programs, primarily commercial and industrial customers
- Continue to pursue critical Power with Purpose utility scale solar resources
- In accordance with Powering the Future 2050, OPPD intends to engage with local education and community organizations to pursue efforts to improve overall impacts for Omaha residents.

Extend North Omaha Station For Temporary Period

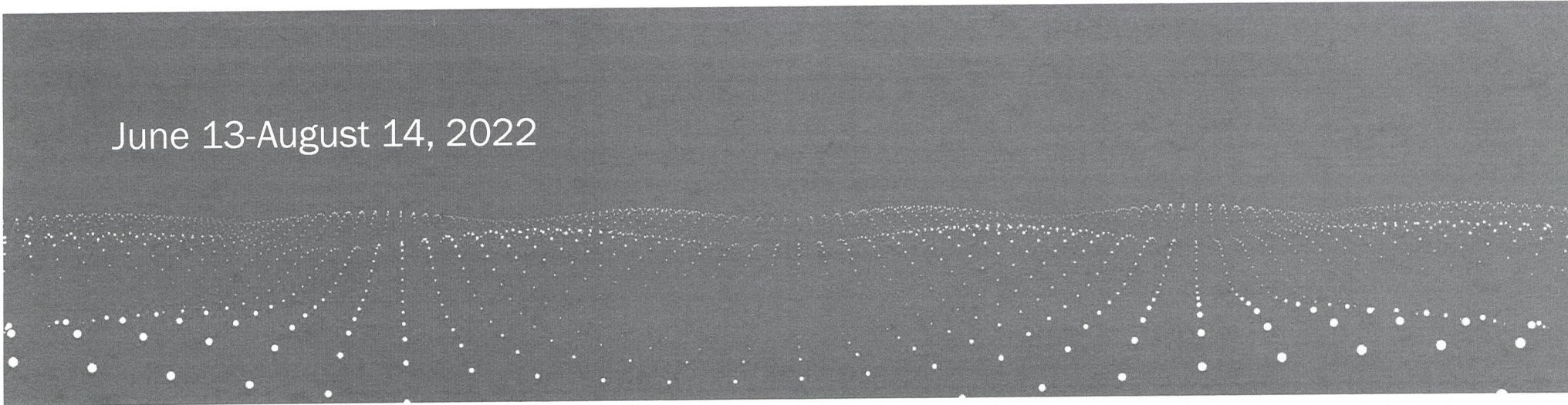
Long-lead Time Items Require Near-Term Action

- Staffing
- Additional maintenance and capital improvement work
- Additional fuel acquisition
- Permitting considerations



External communications & customer feedback

June 13-August 14, 2022



Communication & Outreach

IAP2 Level: Inform

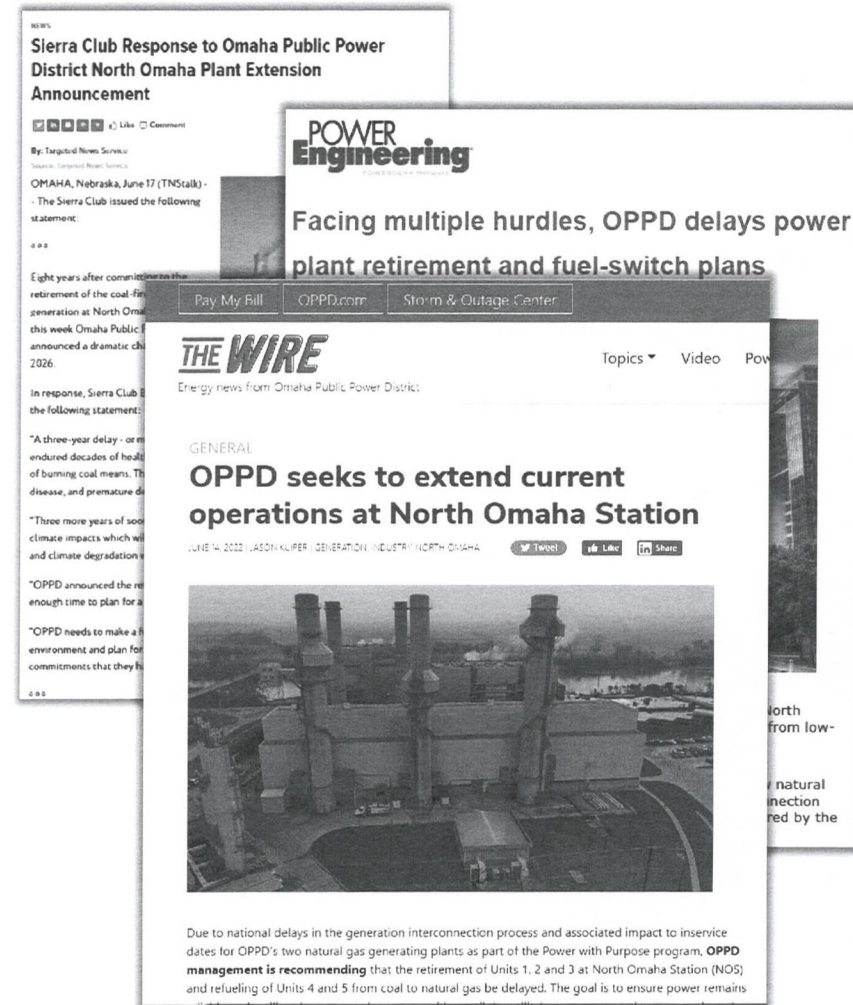
- **OBJECTIVE:** Communicate local, regional and national challenges and changes to the electrical system landscape.
- **MEASUREMENT:** Ensure stakeholders understand the problem(s) we are addressing.
- **TACTICS:** Various, internal communications, external 1:1s, videos, industry articles, Speakers Bureau, website education, FAQs, etc.

TIMELINE

- **Mon., June 13** Employee communication
- **Tues., June 14** Board Committee Meeting
- **June 14 – Aug. 12** - Stakeholder & Customer Outreach
- **Thurs., June 16** Board Meeting; Wire story posted
- **July** No Committee or Board Meeting
- **Tues., Aug. 16** August committee meeting
- **Thurs., Aug. 18** August board meeting—Board Action

External Communications

- Story on OPPDtheWire.com
 - 1,345 page views
 - 1,265 new visitors
 - Average time on post: 6 minutes, 7 seconds
- Media coverage
 - 23 media stories (TV, print and online outlets)
- OPPD Community Connect
 - One comment submitted
- In-person conversations
 - 1:1s with community, regulators, interest groups and elected officials.



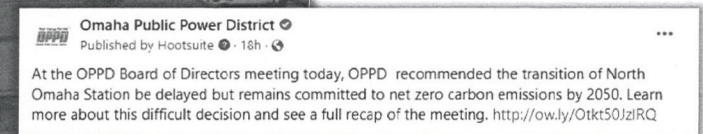
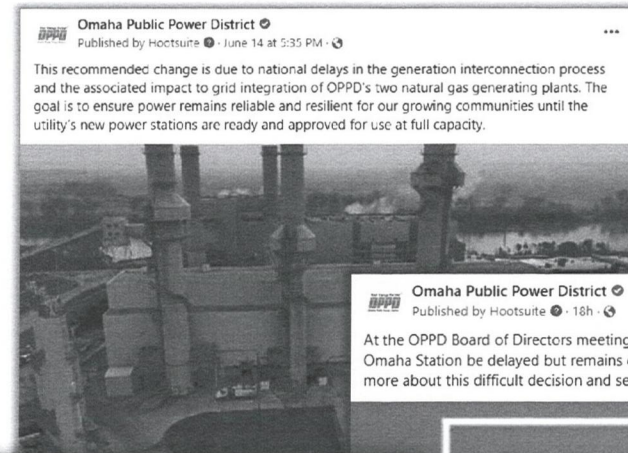
Social media

- Posts and engagement

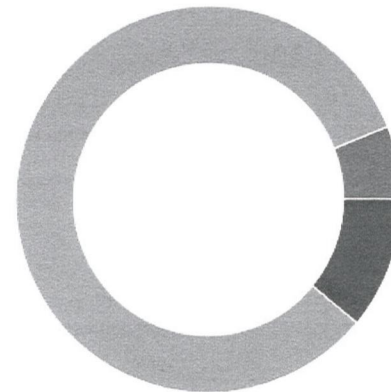
- 14 organic posts on OPPD accounts
- Reach: more than 11,900
- Impressions: more than 24,800
- Link clicks: 238
- Engagements: 789
- 33 shares of OPPD posts by others

- Social media insights

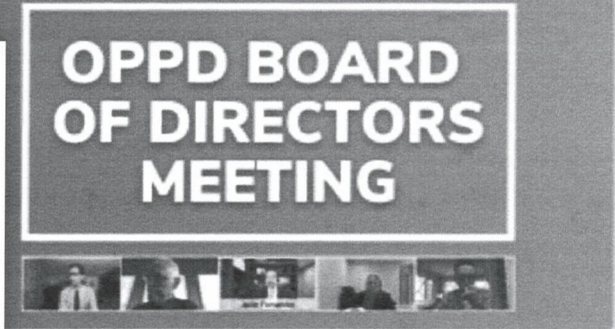
- Total mentions: 164
- Total impressions: 1,700,000
- Total reach: 363,000



Sentiment volume



6% Positive 83% Neutral 11% Negative



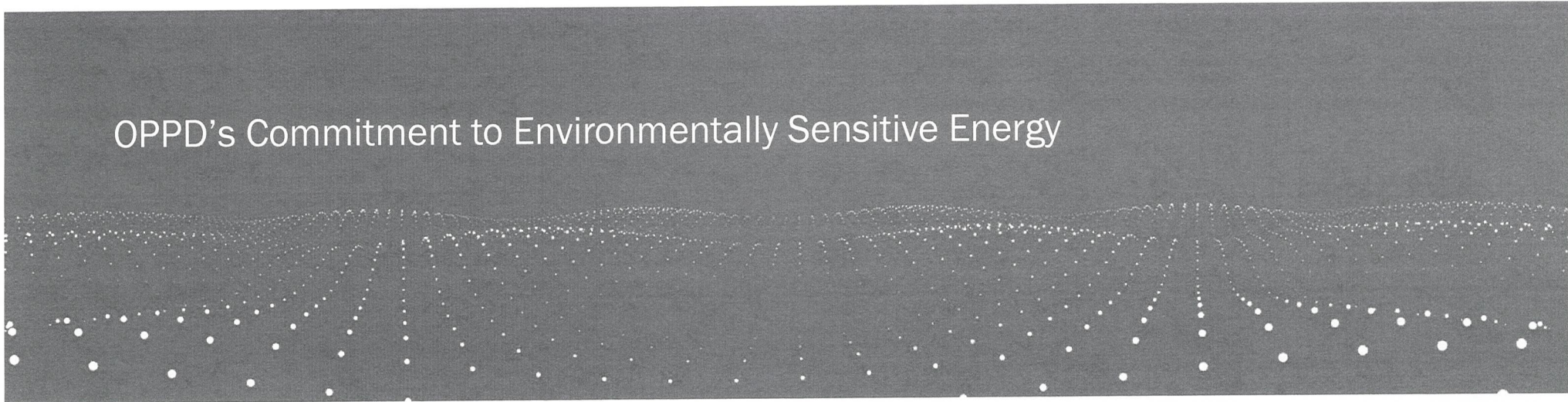
Board contacts and livestreams

- 59 board contacts
 - Board contacts received from districts 2, 3, 4, 5, 6, 7 & 8
- Zero phone calls through the call center
- 1 email via customer service email
- **Board meeting livestream attendance**
 - June board meeting
 - Customers: 49
 - In-person customers: 3
 - June all-committee meeting
 - Customers: 10
 - In-person customers: 0



Response to customer feedback

OPPD's Commitment to Environmentally Sensitive Energy

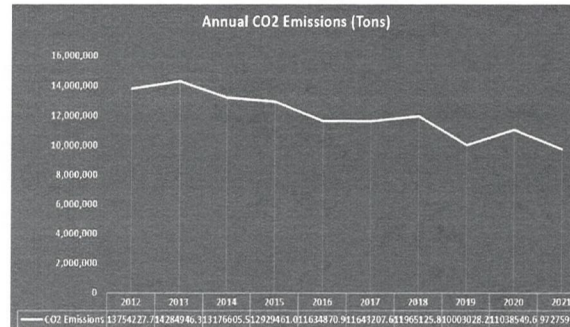


Commitment to Environmentally Sensitive Energy

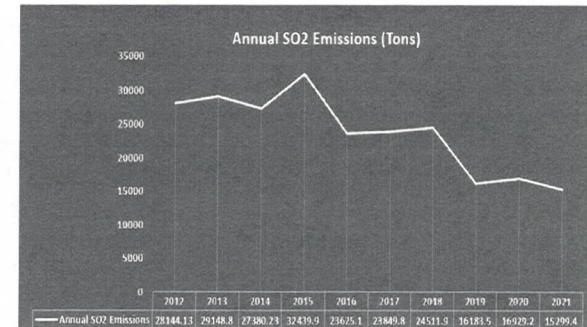
Past Performance

- Over the past decade, OPPD's generating fleet has significantly reduced emissions while maintaining reliability and affordability
- During the last decade, OPPD has integrated over 1,000 MW of new wind energy into our portfolio, converted three of our oldest coal units to natural gas and introduced new demand side management programs
- OPPD will continue efforts to try and reduce emissions while adhering to market rules and system needs

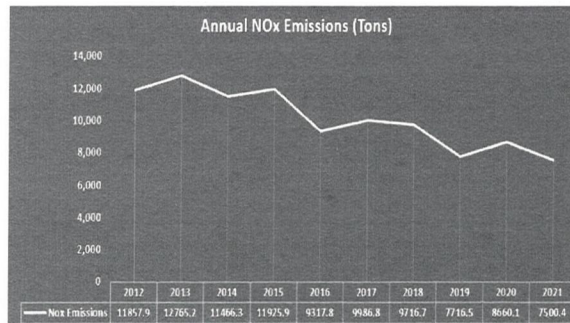
Annual CO2 Emissions (Tons)



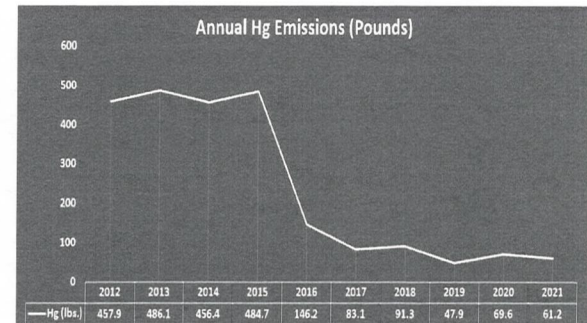
Annual SO2 Emissions (Tons)



Annual NOx Emissions (Tons)



Annual Hg Emissions (Pounds)



<https://www.oppd.com/environment/environmental-reports/fleet-emissions/>

Commitment to Environmentally Sensitive Energy

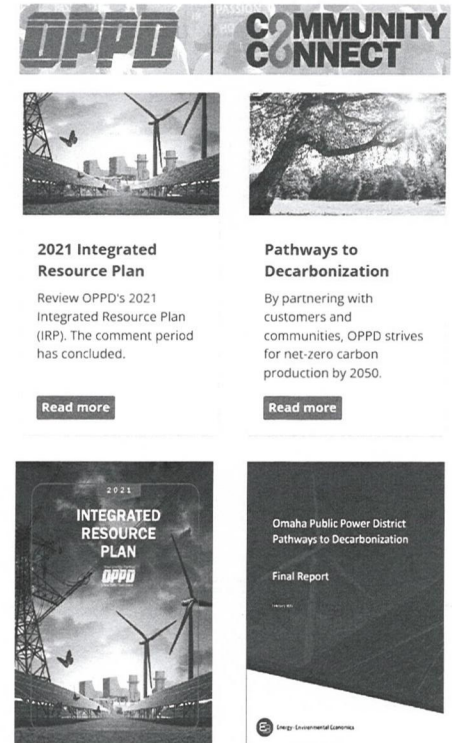
Net Zero Carbon by 2050: Pathways to Decarbonization

Key Findings from OPPD's Pathways to Decarbonization: Energy Portfolio study

- OPPD has a goal of being Net Zero Carbon by 2050
- OPPD recently completed it's *Pathways to Decarbonization Energy Portfolio* study in 2021 and these study results were incorporated into OPPD's most recently published *Integrated Resource Plan (IRP)*
- OPPD remains committed to a sustainable path, achieving our net zero carbon goal by 2050 and building a cleaner world while continuing to maintain reliability and affordability

1. *OPPD can achieve net-zero while balancing affordability and reliability*
2. *Cessation of coal generation and reduced use of fossil generation*
3. *A mix of new low-carbon resources including renewable energy, energy storage and community-wide energy efficiency will be required*
4. *Firm, dispatchable generation is needed to maintain resource adequacy*
5. *Resources are consistent across a variety of pathways*
6. *Absolute-zero emissions scenarios are substantially higher cost and very dependent on future technology development*
7. *Accelerating decarbonization reduces cumulative emissions at a relatively low incremental cost, but poses implementation and integration challenges*
8. *The changing resource mix will pose new resiliency challenges that must be evaluated, understood and mitigated*

<https://www.oppdcommunityconnect.com>



Commitment to Environmentally Sensitive Energy

Net Zero Carbon by 2050: Demand Side Management

YEAR	2018 and Prior	2019	2020	2021	2022	2023	2024 and beyond
HEADCOUNT	3 (or less)	6	5	6	6	8	8
MW SAVED	149.860	154.3	161.67	169.999	185.028 (target)	---	---
DEMAND RESPONSE	• Business Curtailment Riders • Cool Smart • Smart Thermostat (1)			• Cool Smart Enhancements	• Business Curtailment Rider Update & More • Smart Thermostat (+1) • SMB Smart Thermostat	• SPP Cool Smart Changes	• Non-accredited DR Program • SMB Load Management • Managed EV charging
ENERGY EFFICIENCY / DEMAND REDUCTION	• Business Custom • Business Prescriptive • Certified High Performance Homes • CI Energy Monitoring & Consulting Services • Digi (ARC, CRAC, RTU) • ECO 24/7 • EPA Energy Star Evaluations • Geo-thermal • HVAC Smart • Irrigation Load Control • Residential Conservation Rider • Smart Steps • Standby Service Rider • TOU Rider	• Low Income Household Pilot	• CI Lighting & Controls	• Energy Efficiency Assistance • ESCO Partnerships (3) • Thermostat Program (+3)	• ECO SMB Advanced Technology Pilot • Energy Education (elementary) • EV 'off peak' Charging Mgmt. Pilot • CI Outdoor Lighting --- • SMB Building Mgmt. System (currently on hold)	• Energy Education (high school) • Energy Star Appliance • HVAC Tune-up • Residential Lighting • Weatherization	• CI New Construction • CI Strategic Energy Management • Commercial Food Service Rebates • Small Business Direct Install
FOUNDATIONAL AND SUPPORTING	• VisionDSM Implementation	• Energy Efficiency Webpage created • DSM Potentiality Study • Current Program Growth Strategy & Implementation	• Implemented DERMS solution • Implemented PowerClerk® solution • Customer-Owned Generation	• B2B lead generation process • Emissions reporting created • DSM Trade Ally Enhancements • Pathways to Decarbonization SI Study	• Energy Star Tools • Solar Rebate • COG Trade Ally formed • VisionDSM Enhancements • Solar Potentiality Study • Updated IRP DSM Plans	• Winter Peak Strategy & Plan • CI Net Zero / Solar solution(s) • New DSM Potentiality Study	• On Statement Billing • Online Marketplace • AMI Implementation

Future Board and Public Updates

- Periodic updates will be provided to the Board and public regarding:
 - Status of milestones in the SPP generation interconnection process for PwP gas assets, including the interim interconnection process
 - Any material SPP generation interconnection policy or process change which will impact the PwP gas assets

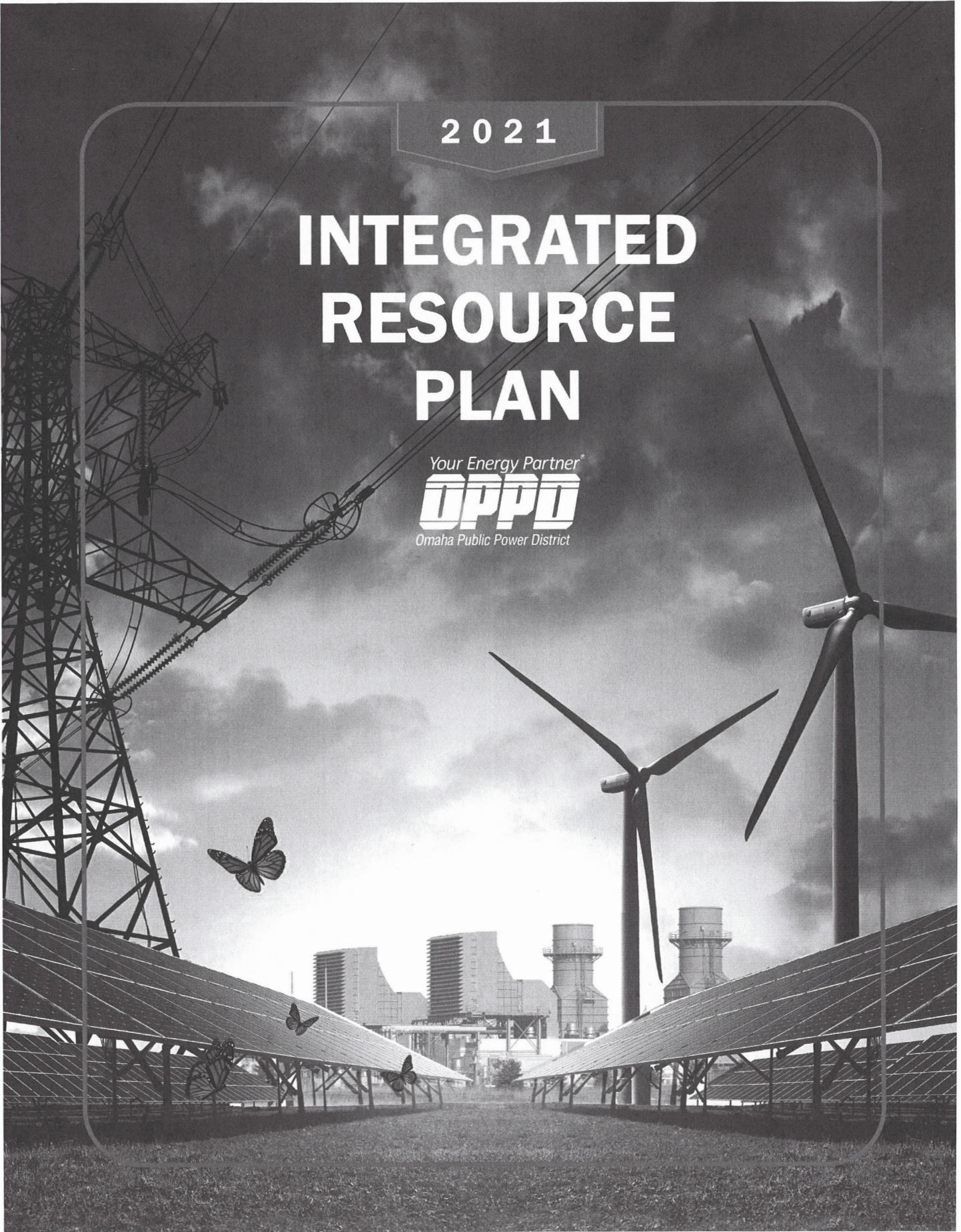
Summary

- Power with Purpose (PwP) generation expansion project is the key enabler to fulfill the transition plan at North Omaha Station (NOS) and must occur in the right technical sequence, at the right times in order to ensure grid reliability and resiliency is maintained to help avoid large scale blackouts.
- While the direction of net zero carbon remains unchanged as well as our intentions to refuel and retire the units at NOS, the timeliness of the generation changes is dependent upon variables not solely controlled by OPPD.
- Community feedback is they understand OPPD's commitment to reliability but some are disappointed that we can't make the change when we said. Accordingly, social media sentiment says 89% is neutral or positive regarding the recommendation. Additionally, in accordance with Powering the Future 2050, OPPD intends to engage with local education and community organizations to pursue efforts to improve overall impacts for Omaha residents.
- Updates will occur to the Board publicly on a monthly frequency during Power with Purpose project status meetings. The District will know more definitive timelines upon receipt of the generation interconnection study results published by the Southwest Power Pool, which is currently estimated in late 2024/early 2025.
- Staff's recommendation is to extend NOS for a temporary period until the Power with Purpose gas assets have completed and fulfilled all the regulated grid interconnection and delivery milestones which is currently estimated by 12/31/2026.

2021

INTEGRATED RESOURCE PLAN

Your Energy Partner[®]
OPPD
Omaha Public Power District



5.2.1. Firm Dispatchable Resources

Resources that are considered “firm dispatchable” can be turned on and off while having fuel sources that are generally dependable, reliable and readily available.

Nebraska City Station - Located approximately five miles southeast of Nebraska City, Neb., this facility consists of two, coal-fired steam generator units, NCS Unit No. 1 (NC1), and NCS Unit No. 2 (NC2).

NC1 was commissioned in 1979 and consists of coal pulverizers, subcritical reheat boiler with wall-fired low NOx coal burners, natural gas and fuel oil igniters, steam turbine and generator, steam condenser supplied by once-through cooling with river water, air preheaters, electrostatic precipitators for emissions control, dry sorbent injection for flue gas conditioning and emissions control, and activated carbon injection for mercury emissions control.

NC2 was commissioned in 2009 and consists of coal pulverizers, subcritical reheat boiler with wall-fired low NOx coal burners, natural gas and fuel oil igniters, steam turbine and generator, steam condenser supplied by cooling water from a cooling tower, air preheaters, SCR (selective catalytic reduction) with ammonia injection for NOx emissions control, dry scrubber with ash recycle for SO₂ emissions control, activated carbon injection for mercury emissions control, a baghouse for particulate emissions control, and pulse jet fabric filter for particulate emissions control.

OPPD retrofitted NC1 with dry sorbent injection and activated carbon injection emissions control systems in 2016 to comply with the Mercury and Air Toxics Standards (MATS).

OPPD owns, operates and maintains NC2. Fifty percent of the station’s output is used by OPPD to meet customer load requirements. OPPD has executed long-term Power Purchase Agreements (PPAs) with seven public power and municipal utilities, known as the Participants, located in Nebraska, Missouri and Minnesota for the remaining 50% of the unit output.

The participants and their percentage share of NC2’s output are as follows:

Table 5-3 Nebraska City Unit 2 Participants Share

Participants	Percentage Share
Central Minnesota Municipal Power Agency	2.17
City of Grand Island, Nebraska, Utilities Department	5.00
City of Independence, Missouri, Power & Light Department	8.33
Falls City, Nebraska, Utilities	0.83
Missouri Joint Municipal Electric Utility Commission	8.33
Nebraska City, Nebraska, Utilities	1.67
Nebraska Public Power NPPD	<u>23.67</u>
Participants' Total	50.00
Omaha Public Power OPPD	<u>50.00</u>
NC2 Total	<u>100.00</u>

North Omaha Station (including conversion) - North Omaha Station (NOS), located in the northeast section of the City of Omaha, consists of five steam generator units equipped for coal and natural gas firing. All five units have subcritical reheat boilers, natural gas igniters and burners, steam turbines, steam condensers supplied by once-through cooling with river water, air preheaters and electrostatic precipitators for emissions control. Maintenance and inspection outages are completed annually at NOS to improve station safety, efficiency and reliability. Units 4 and 5 are also equipped with coal pulverizers and coal burners.

NO1, NO2 and NO3 were retired from coal operation in April of 2016, and all coal supply-related equipment was disconnected from the units. As a result of the board of directors action related to Fort Calhoun Station in June 2016, OPPD is using existing natural gas generating capability for NO1, NO2, and NO3 for capacity accreditation purposes and these units remain available for gas operation, but operate on an infrequent basis as they are called upon by the market.

Retrofitting of NO4 and NO5 with dry sorbent injection and activated carbon injection emissions control systems was completed on April 16, 2016. This retrofit was completed to comply with the MATS rule.

In accordance with board of director's resolution, North Omaha Units 4 and 5 will cease coal operations by December 31, 2023. At that time, the units will undergo new burner and other updates to aid with burning natural gas. NOS Units 1, 2 and 3 will be retired but may be used as an alternate auxiliary steam supply source for seasonal building heating in case of challenges with the planned electric auxiliary boiler.