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VIA EMAIL

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: *Evergy, Inc., et. al v. BNSF Railway Company*
STB Docket No. 42180

Dear Ms. Brown:

Evergy, Inc., Evergy Metro, Inc., and Evergy Kansas Central, Inc.'s ("Evergy") write in response to BNSF Railway's ("BNSF") letter of November 21, 2024, regarding document production by Evergy and to update the Board regarding deficiencies in BNSF's document production to date.

On August 6, Evergy produced 14,312 pages of documents, including integrated resources plans for the utility, which were responsive to a wide range of BNSF's *more than 70* Requests for Production of Documents. On August 14, 2024, Evergy produced 47 spreadsheets encompassing resource adequacy data that BNSF pushed Evergy to provide early in the production. At that point, BNSF had produced no documents. On October 21 and 31, Evergy provided further productions, including its hourly, daily, and five-minute energy market data – another set of data that responds broadly to many of BNSF's RFPs.

BNSF did not provide any production until after Evergy made its second document production on August 14. On both August 6 and August 14, Evergy asked BNSF to provide updates on the status of its document production, particularly the much-needed traffic data. One hour after Evergy transmitted its second production, BNSF unexpectedly provided its first production documents with approximately 4,594 pages – mainly consisting of track charts and timetables. On August 20 and 29, 2024, BNSF provided most of its traffic data. BNSF did not make another production until November 1, 2024, and again, the production was made mere hours after Evergy had sent a follow-up letter to BNSF noting that BNSF had not provided

documents responsive to more than 27 out of 37 requests for production that Evergy had made. BNSF's production before November 1, 2024, did not include any email, coal group, or labor group documents, including documents covering critical issues such as annual coal tonnage nominations, labor staffing plans, and other operational information that Evergy had requested. BNSF's production, excluding structured data, now includes 8,357 documents. BNSF has not completed its production. For example, Evergy's review of BNSF's production indicates that there are few or no system recovery plan documents and only a small collection of labor staffing documents.

On November 11, 2024, Evergy completed a large portion of its email review, a task complicated by the over 2.5 million documents that had to be culled – the vast majority of which had no relation to this matter. Evergy's production of that day included another 34,797 documents and more than 60,000 pages of material. As BNSF indicates, there were some issues with the metadata, but a production error can occur despite best efforts, and Evergy informed its e-discovery vendor within minutes of receiving counsel's email regarding the issue. Unfortunately, correcting the issue required some investigation and an extended period to reimage and produce all of the materials, but it was corrected within a week. Evergy is nearing the completion of its document production.

Evergy will provide updates to the Board as needed.

Sincerely,



Daniel M. Jaffe

cc: BNSF Counsel