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SERVICE DATE – OCTOBER 9, 2020

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 33662 (Sub-No. 2)]

BNSF Railway Company—Trackage Rights Exemption—Omaha Public Power District

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for the acquisition of local trackage rights over an approximately 56.65-mile rail line in Otoe and Lancaster Counties, Neb. (the Line) owned by Omaha Public Power District (OPPD). The Line is comprised of two line segments with noncontiguous mileposts: (1) a line segment between milepost 56.3, near College View, and milepost 4.95, near Nebraska City; and (2) a connecting line segment between milepost 0.7, near Nebraska City, and milepost 6.0, near Arbor.¹

The verified notice states that the purpose of the trackage rights is to permit BNSF to provide service over the Line to OPPD's Nebraska City Power Station and to shippers other than OPPD located along the Line.

The transaction may be consummated on or after October 25, 2020, the effective date of the exemption (30 days after the verified notice of exemption was filed).

¹ A redacted version of the agreement between BNSF and OPPD was filed with BNSF's verified notice of exemption. BNSF simultaneously filed a motion for a protective order to protect the confidential and commercially sensitive information in the unredacted version of the agreement, which BNSF submitted under seal. That motion will be addressed in a separate decision.

As a condition to this exemption, any employees affected by the acquisition of trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by October 16, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 33662 (Sub-No. 2), must be filed with the Surface Transportation Board, either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on BNSF's representative, Peter W. Denton, Steptoe & Johnson LLP, 1330 Connecticut Ave, N.W., Washington, DC 20036.

According to BNSF, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c), and from historic reporting under 49 C.F.R. § 1105.8(b)(3).

Board decisions and notices are available at www.stb.gov.

Decided: October 5, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.