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7	BEFORE THE WASHINGTON STATE		
8	UTILITIES AND TRANSPORTATION COMMISSION HEARINGS BOARD		
9	CITY OF SPOKANE VALLEY, a municipal	No. TR-210814; 210809	
10	corporation,	UNION PACIFIC RAILROAD COMPANY'S	
11	Complainant,	RESPONSE TO CITY OF SPOKANE VALLEY'S MOTION TO STRIKE	
12	vs.	USDOT: 66256C	
13	UNION PACIFIC RAILROAD COMPANY	05001.002500	
14	(aka UPRR),		
15	Respondent.		
16			
17	Union Pacific Railroad Company ("UPRR") respectfully submits this response to The		
18	City of Spokane Valley's ("the City") Motion to Strike Rebuttal Testimony of Ellis Mays and		
19	Peggy Ygbuhay, urging the UTC to deny The City's request for relief.		
20	The Procedural Schedule issued by the Commission specifically authorized "Rebuttal/Cross		
21	Answering Testimony (All Parties)." ¹ The City argues, without reference to supporting authority,		
22	that UPRR could have filed its rebuttal testimony in its initial response testimony and therefore, the		
23	rebuttal testimony should be stricken. The City's position ignores the Commission's Procedural		
24	Order allowing all parties to submit rebuttal testimony.		
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¹ UTC's Procedural Schedule.

UNION PACIFIC RAILROAD COMPANY'S RESPONSE TO CITY OF SPOKANE VALLEY'S MOTION TO STRIKE - 1

1	Distilled, the City baldly characterizes the subject testimony as "response" not "rebuttal."		
2	UPRR disagrees with the City's characterization. The rebuttal testimony specifically addresses		
3	the testimony submitted by the City. Rebuttal evidence is defined: "proof which is given by one		
4	party in a lawsuit to explain or disprove evidence produced by the other party." ² The subject		
5	testimony comports with the definition of rebuttal evidence, specifically responding to the		
6	testimony offered by the City. Thus, the City's Motion to Strike should be denied.		
7			
8	DATED this 2 nd day of May, 2022 LEWIS BRISBOIS BISGAARD & SMITH LLP		
9			
10	By: /s/ Rachel Tallon Reynolds		
11	Rachel Tallon Reynolds, WSBA #38750 Jean Y. Kang, WSBA #42074		
12	1111 Third Avenue, Suite 2700		
13	Seattle, Washington 98101 (206) 436-2020		
14	Rachel.Reynolds@lewisbrisbois.com Jean.Kang@lewisbrisbois.com		
15	Attorneys for Respondent		
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27	² The Law Dictionary, "rebuttal evidence," accessed on LexisNexis on April 30, 2022.		
	UNION PACIFIC RAILROAD COMPANY'S RESPONSE TO CITY OF SPOKANE VALLEY'S MOTION TO STRIKE - 2 Seattle, Washington 98101 206 436 2020		

1	DECLARATION OF SERVICE		
2	I hereby declare under penalty of perjury under the laws of the State of Washington that I		
3	caused a true and correct copy of the foregoing to be served via the methods below on this 2 nd day		
4	of May, 2022 on the following counsel/party of record:		
5	Kenneth W. Harper via U.S. Mail, first class, postage		
6	MENKE JACKSON BEYER, LLPprepaid807 N. 39th Avenuevia Legal Messenger Hand Delivery		
7	Yakima, WA 98902via FacsimilePhone: (509) 575-0313Image: Via E-mail:		
8	Email: kharper@mjbe.com		
9	<u>zfoster@mjbe.com</u> <u>qplant@mjbe.com</u>		
10	Julie@mjbe.com Attorneys for City of Spokane Valley		
11	Washington Utilities & Transportation Image: Constraint of the second secon		
12	Commission		
 13 14 15 16 17 18 19 	Jeff RobersonImage: via U.S. Mail, first class, postageAssistant Attorney GeneralprepaidOffice of the Attorney Generalvia Legal Messenger Hand DeliveryUtilities and Transportation Divisionvia FacsimileP.O. Box 40128via E-mail:Olympia, WA 98504-0128via E-mail:Phone: (360) 664-1188E-mail:jeff.roberson@utc.wa.govbetsy.demarco@utc.wa.govvia Legal Messenger Hand Delivery		
20			
20	/s/ Elizabeth Pina		
22	Elizabeth Pina, Legal Assistant Elizabeth.Pina@lewisbrisbois.com		
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	UNION PACIFIC RAILROAD COMPANY'S RESPONSE TO CITY OF SPOKANE VALLEY'S MOTION TO STRIKE - 3 4867-1872-1822.1 LEWIS BRISBOIS BISGAARD & SMITH LLP 1111 Third Avenue, Suite 2700 Seattle, Washington 98101 206.436.2020		