



Freight Rail
Customer Alliance



July 3, 2023

The Honorable Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: EP 772 (Sub-No. 1), *Oversight Hearing Pertaining
to Union Pacific Railroad Company's Embargoes,*

Dear Ms. Brown:

The Freight Rail Customer Alliance (“FRCA”) and National Coal Transportation Association (“NCTA”) respectfully submit this reply to the filing that Union Pacific Railroad Company (“UP”) submitted on June 14, 2023, responding to the order that the Surface Transportation Board (“Board” or “STB”) served in the above-captioned proceeding on May 15, 2023.

NCTA/FRCA note that most of the materials in the public version of UP’s filing has been redacted in whole or substantial part (*e.g.*, only the first slide of a powerpoint may be shown). In that regard, the Board stated in its decision in the proceeding served January 15, 2023, that it “agrees with FRCA and NCTA that transparency should be pursued in this proceeding to the greatest degree possible and any information submitted by UP should be made publicly available to the extent that it will not cause UP substantial competitive harm or constitute confidential commercial information.”

FRCA and NCTA urge the Board and its staff to consider whether UP’s filing provides “transparency ... to the greatest degree possible” under the circumstances, as the Board directed. A formal embargo is a public act, and the *de facto* embargoes that FRCA and NCTA members, as well as many other shippers, suffered due to UP’s

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inability and/or failure to provide adequate service have public consequences that are no less consequential in terms of production, inflation, growth, and employment. Any UP assertions that shippers, not UP itself, were responsible for embargoes or other service reductions should be subject to full and open review and not taken at face value. Designation of information as confidential, highly confidential, or confidential commercial prevents its dissemination and precludes its review and discussion in public forums.

Respectfully submitted,



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