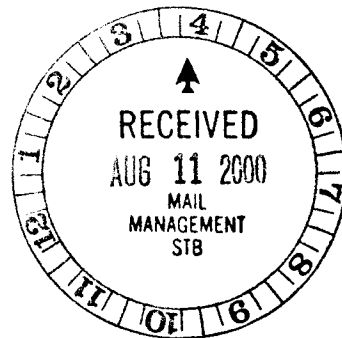


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ORIGINAL

Before the
SURFACE TRANSPORTATION BOARD



Docket No. 42052

UNION PACIFIC RAILROAD COMPANY--PETITION FOR
DECLARATORY ORDER--IMPOSED INTERCHANGE CHARGES

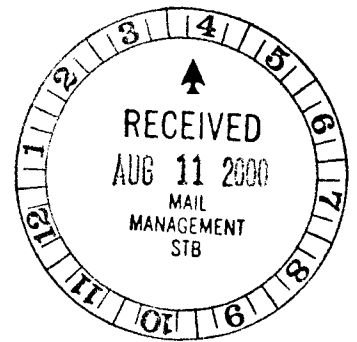
COMMENTS

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Washington DC 20036

Attorney for Joseph C. Szabo

Due Date: August 11, 2000

Before the
SURFACE TRANSPORTATION BOARD



Docket No. 42052

UNION PACIFIC RAILROAD COMPANY--PETITION FOR
DECLARATORY ORDER--IMPOSED INTERCHANGE CHARGES

COMMENTS

These comments are submitted by Joseph C. Szabo,^{1/} for and on behalf of United Transportation Union-Illinois Legislative Board (UTU-IL), in response to notice instituting this declaratory order proceeding and request for comments, dated June 7, 2000 (served June 13), 65 Fed. Reg. 37205-6 (June 13, 2000).

Union Pacific Railroad Company (UP) requested the declaratory order proceeding, citing interchange disputes with Indiana Harbor Belt Railroad Company (IHB), Iowa Interstate Railroad Ltd. (IAIS), and Tacoma Municipal Belt Line Railway (TMBL); further, UP suggested that litigation is likely to multiply as more railroads take action similar to that adopted by IHB, IAIS, and TMBL. (UP Pet., 14-15).

The Surface Transportation Board (STB) in instituting this proceeding, found that significant questions are involved, requiring a full recording, including comments of all interested persons, not just the parties of record. (STB Decision, 6/13/00, 4):

The issues presented raise questions that would appear to have broad and current applicability within the railroad industry, involving significant interpretations of the statutory framework within which that industry operates since enact-

^{1/} Illinois Legislative Director for United Transportation Union, with offices at 8 So. Michigan Avenue, Chicago IL 60603.

ment of the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803. These significant questions deserve resolution on a full record, including the comments of all interested persons, not just the parties already of record.

UTU-IL is concerned with the orderly interchange of traffic between rail carriers. Gateways in Illinois, such as at Chicago, Peoria, and East St. Louis, are important channels of commerce. UTU personnel in Illinois are employed by UP, IHB, and IAIS. UTU-IL has participated in a number of the proceedings cited by UP governing the interchange of equipment, e.g., Exemption from Regulation-Boxcar Traffic, 367 I.C.C. 425 and 367 I.C.C. 747 (1983), Brae Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984), cert. den. 471 U.S. 1069. Cf. Southern Pacific Transp. Co. v. ICC, 69 F.3d 583 (D.C. Cir. 1995).

Interchange between rail carriers is important for maximum railroad employment, as well as for safety concerns. UTU-IL is an interested person within the meaning of the STB's June 13, 2000 decision.

1. Public Participation. UTU-IL is not happy with the notification procedures followed by the STB in this instance, which may not have induced maximum participation. The failure of a service list was noted by one carrier party,^{2/} but the STB did not respond to the carrier's offer. The failure of the STB to adopt the carrier's suggestion will, we believe, result in a diminished response from public parties, particularly those who might support the petitioner. UTU-IL in the past has been critical of STB and its predecessor, ICC, for failure to encourage maximum public participation in a number of proceedings, resulting in a denial of due process and a fair hearing.

2/ See: Union Pacific Railroad Company, letter filed July 26, 2000.

2. Public Availability of Charges. The STB should take measures to permit public access to the interchange charges assessed, or sought to be assessed, between carriers, whether in the form of "tariffs" or otherwise. These charges are of public concern, and are of particular interest to railroad employees. UTU-IL has supported the need for public information, including the public availability of tariff and rate charges. See: Disclosure, Pub. & Not. of Change of Rates-Rail Carriage, 1 S.T.B. 153 (1996).^{3/}

3. Position on Merits. UTU-IL takes no position on the merits of the efforts by IHB, IAIS or TMBL to impose interchange charges on UP, at least at this time in advance of review of all submissions by the parties and interested persons.

Respectfully submitted,


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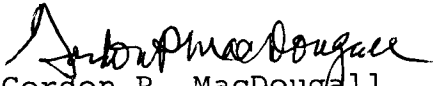
August 11, 2000

Attorney for Joseph C. Szabo

Certificate of Service

I hereby certify I have served a copy of the foregoing upon all persons named by the Board in its June 13, 2000 decision, by first class mail postage-prepaid.

Washington DC


Gordon P. MacDougall

^{3/} See, in particular: Ex Parte No. 528, Comments, filed April 8 and June 10, 1996.