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ENTERED
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March 16, 2015
Part of
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By E-Filing

March 16, 2015

Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

**Re: Docket No. 42143, Sherwin Alumina Company, LLC v.
Union Pacific Railroad Company**

Dear Ms. Brown:

I am writing on behalf of Union Pacific Railroad Company (“Union Pacific”) to address a procedural issue in connection with the petition that was filed by Sherwin Alumina Company, LLC (“Sherwin”) in the referenced matter on March 10, 2015. Sherwin complains that Union Pacific is not providing service to a plant where Sherwin has locked out 450 unionized employees since October 2014.

Sherwin seeks expedited consideration of its petition, and Union Pacific does not object to expedited consideration by the Board. However, Board action would be appropriate only after Union Pacific has an appropriate amount of time to develop the facts and prepare our response to the petition. Indeed, Union Pacific intends to seek an extension of time to file our reply to the petition, and we will attempt to negotiate an extension with Sherwin before seeking relief from the Board.

There is no reason to deprive Union Pacific of a fair opportunity to respond to Sherwin’s petition. Sherwin could have filed its petition several months ago. Sherwin alleges that Union Pacific ceased providing rail service on November 6, 2014 (Petition, p. 1), yet Sherwin waited more than four months to file its petition. Moreover, the situation Sherwin now faces is not a surprise: documents Sherwin attaches to its petition reflect that Union Pacific explained the obstacles to service that a lock-out situation would present and communicated its contingency plans in July 2014. (*Id.*, Verified Statement of Kent Britton, Attachment B.) Finally, Sherwin’s alleged concerns about harm to operations are speculative and involve circumstances that may (or may not) exist several months in the future. Although Sherwin asserts an “urgent need” for rail delivery of lime to its plant (Petition at 12), it later reveals that this is a speculative, distant possibility: a need that might arise “by July 2015” because Sherwin “may” increase production, in which case it “could” experience adverse impacts—if it cannot receive sufficient service by trucks (*id.* at 13).

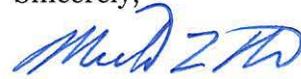
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Sherwin's petition is a substantial filing that Sherwin describes as its "case in chief." (Petition at 2.) The filing, 89 pages in total, includes 25 pages of arguments from counsel and four verified statements from Sherwin employees that address, among other things, purported statements by Union Pacific employees, conditions on picket lines, and Sherwin's alternatives to rail service directly to its plant. Union Pacific has had no opportunity yet to conduct discovery or complete an investigation of Sherwin's factual allegations. In these circumstances, Union Pacific should not be expected to respond to the petition, which Sherwin filed on its own time-table, within the usual 20 days (49 C.F.R. § 1104.13), much less on an "expedited" basis.

Please contact the undersigned with any questions.

Sincerely,



Michael L. Rosenthal

cc: Daniel M. Jaffe, Esq.
Katherine F. Waring, Esq.
Louise A. Rinn, Esq.