

SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D.C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
KATHERINE F. WARING
BRADFORD J. KELLEY

OF COUNSEL
DONALD G. AVERY
CHRISTOPHER A. MILLS

238932

TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:
dmj@sloverandloftus.com

ENTERED
Office of Proceedings
July 28, 2015
Part of
Public Record

July 28, 2015

Via E-Filing

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

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

Dear Ms. Brown:

On July 21, 2015, the Brotherhood of Locomotive Engineers and Trainmen ("BLET") filed its unauthorized "Comments" in the above entitled proceeding. As BLET had no authorization from the Board to file its comments, the Board should summarily reject the filing. Moreover, as Sherwin Alumina Company, LLC ("Sherwin") predicted, BLET's filing merely rehashes portions of the legal arguments that Union Pacific Railroad Company ("UP") already raised in its reply of May 5, 2015 – arguments which Sherwin demonstrated rested on inapplicable or overturned cases – while impermissibly broadening the scope of the proceeding, in contravention of 49 C.F.R. § 1112.4, by raising spurious assertions concerning Sherwin's motives for asserting its rights to common carrier service.

Sherwin is deeply concerned about the delay that BLET's filing has already caused given the time-sensitive nature of Sherwin's Petition. BLET does not even deny that it sat idly by for months nor does it offer any defense for its tardiness. As such, Sherwin urges the Board to act swiftly and reject BLET's filing. Furthermore, to prevent further delay, Sherwin does not intend to file a reply to BLET's unauthorized filing unless the Board advises Sherwin that it intends to consider BLET's comments.

Respectfully submitted,



Daniel M. Jaffe
An Attorney for Sherwin Alumina Company, LLC

Ms. Cynthia Brown
July 28, 2015
Page 2

cc:Michael L. Rosenthal, Esq.
Louise A. Rinn, Esq.
Michael S. Wolly, Esq.
Erika A. Diehl-Gibbons, Esq.