

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**Finance Docket No. 35504**

---

**UNION PACIFIC RAILROAD COMPANY—  
PETITION FOR DECLARATORY ORDER**

---

**REBUTTAL COMMENTS OF  
THE DOW CHEMICAL COMPANY**

---

**ENTERED**  
**Office of Proceedings**  
**March 26, 2012**  
**Part of**  
**Public Record**

The Dow Chemical Company (“Dow”) hereby submits these Rebuttal Comments in accordance with the Board's December 12, 2011 decision in this proceeding. Union Pacific Railroad Company (“UP”) seeks a declaration that Items 50 and 60 of UP Tariff 6607, which require shippers of Toxic Inhalation Hazard (“TIH”) materials to indemnify UP against all liabilities, except to the extent those liabilities are caused by the negligence of UP, are not unreasonable. Those tariff items would make TIH shippers responsible not just for the shippers’ own negligence, but for any cause whatsoever that is not otherwise attributable to UP, even if the shippers are not at fault and even if a third party is at fault.

Dow is a member of the American Chemistry Council and the Chlorine Institute, which have filed joint comments in this proceeding, along with The Fertilizer Institute, and the National Industrial Transportation League. Dow supports those comments and urges the Board to determine that UP’s tariff is unreasonable

Respectfully submitted,



---

Jeffrey O. Moreno  
Thompson Hine LLP  
1919 M Street, N.W.  
Washington, DC 20036  
(202) 331-8800  
*Counsel for The Dow Chemical Company*

March 26, 2012

**Certificate of Service**

I hereby certify that on 26th day of March 2012, a copy of the foregoing Rebuttal Comments of The Dow Chemical Company was served by electronic delivery on all parties of record in these proceedings.

  
\_\_\_\_\_  
Jeffrey O. Moreno