



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

NORTH AMERICAN FREIGHT CAR ASSOCIATION,	)	
	)	
Complainant,	)	Docket No. 42119
	)	
v.	)	
	)	
UNION PACIFIC RAILROAD COMPANY,	)	
	)	
Defendant.	)	
	)	

**UNION PACIFIC RAILROAD COMPANY’S PETITION  
FOR AN ORDER DIRECTING SIMULTANEOUS FINAL BRIEFS**

Pursuant to 49 C.F.R. § 1117.1, Defendant Union Pacific Railroad Company (“UP”) respectfully requests that the Board direct UP and Complainant North American Freight Car Association (“NAFCA”) to file simultaneous final briefs within 30 days after the service date of the Board’s order granting this request. UP requests that the final briefs be limited to no more than 20 pages with no attachments, exhibits, or new evidence.<sup>1</sup>

Final briefs provide an important opportunity for the parties to summarize and highlight the key issues in the case and properly apply Board precedent. For this reason, the Board regularly permits the filing of final briefs upon request of a party. *See Cargill, Inc. v. BNSF Ry.*, NOR 42120, slip op. at 1 (STB served March 1, 2012) (noting that “requests for final briefs have been consistently granted” in all types of Board proceedings). Furthermore, the Board specifically has recognized that final briefs assist in focusing the evidence and aid the

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<sup>1</sup> Counsel for UP conferred with counsel for NAFCA, and counsel for NAFCA advised that they intend to oppose UP’s request for briefs.

efficiency of the Board’s resolution of outstanding issues. *See, e.g., Pub. Serv. of Colo. d/b/a Xcel Energy v. The Burlington N. & Santa Fe Ry.*, NOR 42057, slip op. at 1 (STB served Aug. 8, 2003) (“In complex cases such as this one, the Board has generally found that briefs . . . can focus the issues and thereby contribute to greater efficiency in analyzing the record.”); *Tex. Mun. Power Agency v. The Burlington N. & Santa Fe Ry. Co.*, NOR 42056, slip op. at 1 (STB served May 28, 2002) (same); *PPL Mont., LLC v. The Burlington N. & Santa Fe Ry.*, NOR 42054, slip op. at 2 (STB served Dec. 12, 2001) (same).

Even in non-rate cases and in situations when a party objected to a request for final briefs, the Board has consistently granted such requests. *See, e.g., Cargill, Inc.*, slip op. at 1; *Canadian Pac. Ry., et al. – Control – Dakota, Minn. & E.R.R., et al.*, FD 35081 (STB served June 12, 2008). Briefs assist the Board in evaluating the record and making a decision that is fair and fully informed. *See W. Tex. Utils. Co. v. Burlington N.R.R.*, NOR 41191, slip op. at 2 (ICC served Sept. 8, 1995) (noting that final briefs are not meant to “give either side a tactical advantage by allowing it the ‘last word’” but will “assist the [Board] in evaluating the record compiled in the proceeding so that it can make a fair and informed decision”).

In this case, final briefs would allow each party to identify the issues that are in dispute, to explain the issues that are relevant, and to set forth its positions on these key issues, in light of the record that has been established. Accordingly, the Board should direct UP and NAFCA to file simultaneous final briefs within 30 days after the service date of a Board order granting UP’s request. UP believes that, in light of the record in this case, briefs of 20 pages, with no attachments, exhibits, or new evidence, would be sufficient.

Respectfully submitted,

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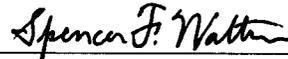
*Attorneys for Union Pacific  
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March 23, 2012

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of March, 2012, I caused a copy of the Petition for an Order Directing Simultaneous Final Briefs to be served by e-mail and first-class mail, postage pre-paid on:

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