



March 23, 2009

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224768



Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001

ENTERED  
Office of Proceedings

MAR 30 2009

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Public Record

Re: STB Finance Docket No 35219

Dear Sir or Madam:

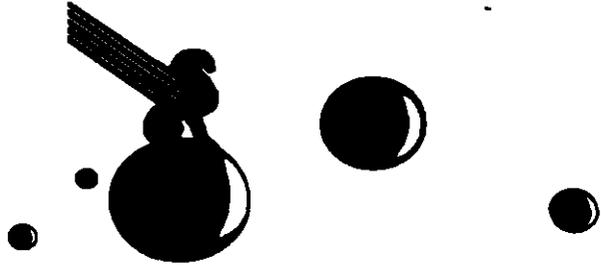
In light of the recent actions taken by the Union Pacific Railroad, Old World Industries, as a manufacturer of a TIH commodity feels compelled to provide comments. Union Pacific's refusal to prepare and provide a rate proposal is not only a blatant disregard of their responsibility as a common carrier, but also a glaring example of how they have exceeded the boundaries of a transportation provider.

The Union Pacific is a common carrier and must operate as such. It has neither the right nor prerogative to dictate how their customers conduct their operations or business. Their customer's compliance of U.S. rules and regulations should be the Union Pacific's sole concern. Liability is inherent in transporting any good in any mode. It is also inherent in the manufacturing process. Manufacturers do not receive, nor seek, relief from any liabilities from their customers.

The Union Pacific is not involved in the business negotiations between their customers and operating companies. They are not aware of the ramifications of decisions made between those companies with respect to downstream product supply, costs and logistical implications. It is not their inherent right to then make decisions that would provide potential negative impact. These companies are allowed by law to compete in an open marketplace. The Union Pacific bears no authority by law to interfere with these companies and their negotiated contracts.

The Union Pacific has responded to rate proposal inquiries that their pricing is purely based on what the market will bear. They cannot then dictate to their customers on how they should operate within that market. Their recent actions are not consistent with their own philosophy. They are ultimately attempting to control the market place and the rail rates within that market as well.

The companies that are serviced on closed stations on the Union Pacific have no competitive rail situation. They are forced to ship via the Union Pacific in those lanes at their non-competitive rates. As these companies do not have the other options the Union Pacific should have no authorized input as from whom, from where, and to whom a company ships their product.



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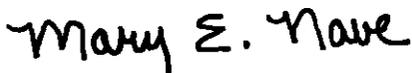
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By their actions, the Union Pacific is attempting to circumvent their responsibilities as a common carrier of hauling TIH commodities. This inexplicable stance that the Union Pacific has taken, is detrimental to the industries that depend upon the manufacturing and sale of TIH commodities. I am certain that most people don't realize that TIH products are essential in the manufacturing of household items such as laundry detergent, bleach or soap, or that they are used in the manufacturing of cosmetics and personal hygiene products. While most want to focus only on the hazardous nature of transporting a TIH product, they also do not want to do without the products essential to daily life.

As discussed with the Union Pacific, by providing unjustifiable rail rates, they will knowingly shut down U.S. plant operations of TIH manufacturers or those that depend upon TIH material to produce their product. As rail freight rates soar, finished product that was once less costly to produce in the U.S. is now competing internationally and being imported at a more economical rate, thus sending U.S. jobs overseas. I would assume that the STB or any other government agency would not support that action, especially given today's harsh economic conditions. Where do you draw the line? What other products they will attempt to boycott transporting in the future? Where will it end, and at what cost to the U.S. manufacturers and consumers?

I would implore the STB to review the parameters of a Class 1 Rail carrier with respect to their immunity to Anti-Trust laws and the assumed responsibilities that these carriers possess. I request that the STB mandate that the rate proposal in question be provided by the Union Pacific and tendered to the company that has been unduly hindered in their attempts to conduct business as provided by the law.

Mary E. Nave



Director, Transportation

CC: Tonya W. Conley, Union Pacific Railroad Company, 1400 Douglas Street, Omaha, NE 68179.