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Before the
SURFACE TRANSPORTATION BOARD

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Ex Parte No. 669

INTERPRETATION OF THE TERM "CONTRACT" in 49 U.S.C. 10709

REPLY COMMENTS

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Attorney for John D. Fitzgerald

Due Date: August 2, 2007

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REPLY COMMENTS

John D. Fitzgerald,^{1/} for and on behalf of United Transportation Union-General Committee of Adjustment (UTU/GO-386), submits these reply comments, in response to Notice of Proposed Rule-making (NPRM), served March 29, 2007. 72 Fed. Reg. 16316 (April 4, 2007).

This respondent did not file initial comments; however, the various submissions by others have been reviewed.

UTU/GO-386 desires transparency in railroad regulation, and in the administration of applicable statutes.

From the NPRM and the various comments, the Surface Transportation Board (Board) has not fully understood that a "contract" rate need not be "confidential," such that the Board errs in claiming Congress intended all contract rates be confidential. (NPRM 4, para. 3; 6, para. 4). Contract rates, if desired, can be accorded public knowledge. There is no requirement in 49 U.S.C. 10709 that a contract rate must be confidential. Moreover, the

^{1/} General Chairman for United Transportation Union, on lines of BNSF Railway Company, with offices at 400 E. Evergreen Blvd., Vancouver, WA 98660

Board should encourage open disclosure, not secrecy, if the parties desire.

UTU/GO-386 considers disclosure and transparency conducive to competition, not the reverse as suggested by some.

Respectfully submitted,



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August 2, 2007

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Certificate of Service

I hereby certify I have served a copy of the foregoing upon parties of record by first class mail postage-prepaid.

Washington DC



Gordon P. MacDougall