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September 14, 2007

Vernon A. Williams
Secretary
Surface Transportation Board
Washington DC 20423

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Office of Proceedings

SEP 14 2007

Part of
Public Record

Re: ✓ Ex Parte No. 665, Rail Transportation of Grain 220257
Ex Parte No. 671, Rail Capacity and Infrastructure Requirements 220258

Dear Mr. Williams:

The attached two-page letter, dated September 6, and received that day at the Board's offices, was not accepted for filing or acknowledged with an ID number. It was labeled "correspondence."

I am resubmitting this letter with the request it be filed in each of the captioned rulemaking dockets. I am aware that the Board had "closed" Ex Parte No. 665, and Ex Parte No. 671, on January 12 and May 11, 2007, respectively. However, supplemental filings were made by two Class I carriers, as well as a governmental agency.

The Board's rules permit late filings in rulemaking matters prior to final action, 49 CFR 1110.5, and service need not be effected, inasmuch as the Board did not so require, 49 CFR 1104.14(b).

Here, the Board in mid-August issued a notice, on its website (and not specifically indexed under Ex Parte No. 665 or Ex Parte No. 671), that the Board intended to retain a contractor for certain rate analysis. This was a new and unexpected development, with a projected expenditure of \$1.2 million. In its announcement, the Board stated, as a fact, that rail transportation rates have declined steadily since 1980.

UTU/GO-386 has contested this rate decline assumption. The STB's contention is contrary to the rate index published by the U.S. Department of Labor, Bureau of Labor Statistics, and utilized by the Board itself in various matters.

The action of the Board in undertaking this contractor project warranted the supplemental filing by UTU/GO-386 calling attention to the BLS data and infirmities of the factual premise underlying the proposal.

Respectfully submitted,

Gordon P. MacDougall
Atty. for John D. Fitzgerald

cc: All parties

Correspondence

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ORIGINAL

September 6, 2007



Charles D. Nottingham
Chairman
Surface Transportation Board
Washington DC 20423

Re: ~~Ex Parte No. 665, Rail Transportation of Grain~~
 ~~Ex Parte No. 671, Rail Capacity and Infrastructure Require-~~
ments.

Dear Chairman:

This letter is responsive to the "Item of Interest" which was posted on the STB website announcing a proposal by the agency for bids to retain a contractor who will provide a team of qualified analysts to assess competition in the U.S. railroad industry. The official title of the undertaking is "Report of the U.S. STB on Competition and Related Issues in the U.S. Freight Railroad Industry." The posting apparently was removed at the end of the bidding on September 4, 2007. It did not appear yesterday.

This communication is on behalf of John D. Fitzgerald, General Chairman for United Transportation Union (UTU/GO-386), a participant in the two captioned proceedings.

In its "background," the proposal states:

In the years following the Staggers Rail Act of 1980, the U.S. railroad industry vastly improved its productivity, profitability, and performance. Rail transportation rates, in both real and nominal terms, declined steadily while freight volumes steadily increased. In the past few years, however, however, capacity constraints have emerged in key corridors and rates have in some cases increased sharply.

Insofar as made public, the proposal cites only one STB proceeding, Ex Parte No. 671, and only one GAO report (GAO-07-94), the latter issued in October 2006.

UTU/GO-386 wishes to go on record as in disagreement with the fundamental premise of the proposal and its "background," that rail transportation rates have declined steadily from 1980 until the past few years. Attention is directed to the UTU/GO-386 submission in Ex parte No. 665, which proceeding was instituted February 11, 2006 with specific reference to the October 2006 GAO report. A different GAO report, mentioned in the STB's order of

March 6, 2007, instituting Ex Parte No. 671, was issued in January 2006. However, the January 2006 GAO report has a heavy emphasis on asserted rail rate developments, which are challenged.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Gordon W. Douglas".

Atty. for John D. Fitzgerald