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FD-32760 (SUB 40)

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BEFORE THE
SURFACE TRANSPORTATION BOARD



FINANCE DOCKET NO. 32760 (Sub-No-40)

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY, AND
MISSOURI PACIFIC RAILROAD COMPANY – CONTROL AND MERGER – SOUTHERN
PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC TRANSPORTATION COMPANY,
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP., AND THE DENVER
AND RIO GRANDE WESTERN RAILROAD COMPANY

(ARBITRATION REVIEW)

MOTION OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS
UNION PACIFIC RAILROAD – CENTRAL REGION
FOR PERMISSION TO FILE REBUTTAL TO UNION PACIFIC RAILROAD COMPANY'S
REPLY AND OPPOSITION TO PETITION FOR REVIEW OF AN ARBITRATION AWARD

CHARLES R. RIGHTNOWAR
320 Brookes Drive, Suite 115
Hazelwood, MO 63042
(314) 895-5858
(314) 895-0104 (fax)

General Chairman
Brotherhood of Locomotive Engineers
Union Pacific Railroad – Central Region

ENTERED
Office of Proceedings

JUL 15 2003

Part of
Public Record

**MOTION OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS
UNION PACIFIC RAILROAD – CENTRAL REGION
FOR PERMISSION TO FILE REBUTTAL TO UNION PACIFIC RAILROAD
COMPANY’S REPLY AND OPPOSITION TO PETITION FOR REVIEW OF AN
ARBITRATION AWARD**

Comes now the Brotherhood of Locomotive Engineers and moves to file this Rebuttal to the Union Pacific Railroad Company’s Reply and Opposition to Petition for Review of an Arbitration Award (“Reply”), in the interest of the more complete record. *Norfolk & W. Ry. Co. and New York, C & St. L. R. Co. Merger*, 9 I.C.C.2d 1021 n.1. (1993).

The Union Pacific Railroad Company (“Union Pacific”) raised a timeliness issue in its Reply at 3, 10-11. However, the Union Pacific’s position as to this issue was based upon speculation and conjecture, rather than fact. *Id.* As such, in the interest of a more complete record, the actual fact that the original filing of the Petition and Appendices was made through Airborne Express, picked up on June 6, 2003, in Hazelwood, Missouri, and delivered to J. Pearson, on June 10, 2003 at 9:48 A.M., in Washington, D.C., Airbill No. 7703818581 (Copy attached hereto as Exhibit A), also used as the Tracking Number in the “Signature Proof of Delivery: Detail”(Copy attached hereto as Exhibit B), should be accepted. Since June 6, 2003, is more than one day prior to the due date, the original filing of the Petition and Appendices was timely pursuant to 49 CFR § 1104.6:

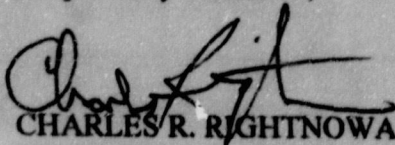
§1104.6 Timely filing required.

Documents must be received for filing at the Board’s offices in Washington, DC within the time limits set for filing. At the Board’s offices in Washington, DC within the time limits set for filing. The date of receipt at the Board, and not the date of deposit in the mail, determines the timeliness of filing. However, if a document is mailed by United States express mail, postmarked at least one day prior to the due date, it will be accepted as timely. Other express mail, received by the private express mail carrier at least one day prior to the due date, also will be accepted as timely filed. The term express mail means that the carrier or delivery service offers next day delivery to Washington, DC.

(Emphasis original and added)

Although the undersigned has made subsequent inquiry with the customer service representative at Airborne Express as to why the original Petition and Appendices was not delivered on June 9, 2003, as intended, the customer service representative was unable to provide any explanation. Regardless, the filing was timely, pursuant to the express language of the above-quoted Section.

Respectfully submitted,


CHARLES R. RIGHTNOWAR
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General Chairman
Brotherhood of Locomotive Engineers
Union Pacific Railroad – Central Region

CERTIFICATE OF SERVICE

I hereby certify that the foregoing MOTION OF THE BROTHERHOOD OF
LOCOMOTIVE ENGINEERS UNION PACIFIC RAILROAD – CENTRAL REGION
FOR PERMISSION TO FILE REBUTTAL TO UNION PACIFIC RAILROAD COMPANY'S
REPLY AND OPPOSITION TO PETITION FOR REVIEW OF AN ARBITRATION AWARD,
by U. S. Postal Service Express Mail to Brenda J. Council, POLK WALDMAN WICKMAN &
COUNCIL, PC, LLO, 1016 Leavenworth Street, Omaha, Nebraska 68102, Attorneys for Union
Pacific Railroad Company, and John B. LaRocco, Arbitrator, 2001 H Street, Sacramento,
California, 95814-3109, on this 14~~th~~ day of July 2003.



EXHIBIT "A"

1 Sender Account Number 115048618		Preprint Format No. 48545341		3 Payment Sender will be billed unless marked otherwise: Bill to: Receiver <input type="checkbox"/> 3rd Party <input type="checkbox"/>		Origin STL		Airbill Number 7703818581	
FROM (Company) BLE				Account # (Required if 3rd Party)		4 Service Type One box must be checked. Assumed Express unless noted.		<input checked="" type="checkbox"/> Express	
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Sent by (Name/Dept)				Phone (Required) 314-8955858		5 Billing Reference (will appear on invoice)		Next Afternoon over 5 lbs charged at the Express rate. Next Afternoon to Bonded situations only.	
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Attention: (Name/Dept) VERNON WILLIAMS				Phone (Required) (202) 565 1674		8 Special Instructions <input type="checkbox"/> Saturday Delivery <input type="checkbox"/> Extra charge Express only <input type="checkbox"/> Not available to all locations <input type="checkbox"/> Lab Pack Service		<input checked="" type="checkbox"/> Second Day (Letter - 100 lbs)	
Description				Declared Value <input type="checkbox"/> or Asset Protection <input type="checkbox"/>		Shipment Valuation \$.00		9 Service Type <input checked="" type="checkbox"/> Second Day (Letter - 100 lbs)	
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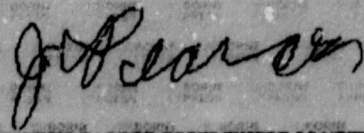
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Shipment Summary:

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Signature:



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Receiver:

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 Washington, DC 20423
 United States

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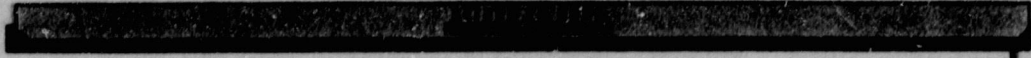


EXHIBIT "B"