MR. ELLIOT: Chairman Nober, Vice Chairman Mulvey, thank you for the opportunity to appear today before the Board and express the views of the United Transportation Union. I will be -- I also will not be using the full amount of allotted time and I’ve also discussed the testimony with Mr. Kraus and as a result, we’ve tried to minimize any type of overlap that was presented in our written testimony.

First of all, with respect to the United Transportation Union and labor, one of the major concerns that labor has is with respect to the possibility of I guess what it was called a sham transaction taking place in this instance where Class I’s would take marginal lines and sell them to some of the Class II’s or III’s who would then with the less restrictive abandonment exemption, proposed
abandonment exemption in place, could then turn around without any restrictions and immediately abandon the property and thereby skipping any type of Oregon Short Line labor protection that would be imposed if the carriers, the Class I carriers just simply abandoned it themselves through that proceeding.

And that has, obviously, been a concern for labor since what happened in the 10901 transactions in the ‘80s and early ‘90s due to the liberal interpretation of that statute there, the concern raises its head again here in this situation and we just want that situation to be addressed. And it has also been of more serious concern lately because it appears that some of the major carriers are at the present time, unloading quite a bit of their marginal lines. So it’s a timely concern.

And also, it’s not an unfounded concern because if the Board recalls, there’s been several instances, well, two instances specifically, where this has occurred. The first one that I recall was the Land Conservancy King County case involving Burlington Northern and Santa Fe in Finance Docket 33389 back in
1997. In that instance, the BNSF sold a marginal line to the King County Land Conservancy group and as a result right after they obtained the property, they abandoned it. UTU filed a petition to revoke at the time and the Board found that what they did in that instance by by-passing the possibility of Oregon Short Line Labor Protection and using 10901 to jump into the abandonment through another carrier was abuse of the processes and that is the type of abuse of processes that the United Transportation Union and Labor are concerned about.

A similar thing happened just recently in the SF&L case with Toledo Peoria and Western in Finance Docket 33995, in 2003. So that’s a significant -- obviously, a significant concern for rail labor and also addresses one of the rail transportation policies in Section 101.111. Also and just generally speaking, UTU has some concerns about the possibility that this will make it easier for the carriers to abandon lines and as a result there may not be enough scrutiny and as a result some lines may disappear as obvious, Labor likes to see as many lines
in operation as possible because where there’s lines, there’s obviously, work, generally speaking.

And just two quick points that jumped out at me when I reviewed the petition, which I found to be some of the premises that the petition was based on which I found to be somewhat I guess lacking in some logic. First of all, the Petitioners claim that the present procedures are extremely burdensome and highly inappropriate for the small railroads, Class II’s and Class III’s and it seems to me while they cite quite a bit of factual data regarding the small size of these carriers, what had been ignored in the petition itself was the fact that many of these as we know from the 10901 proceedings are -- many of these companies are subject to holding companies and parent companies and in fact -- and my count may not be accurate, by my count 22 out of the Petitioners were all owned by the Genesee and Wyoming company which is a significant corporation in itself and based on their annual report from last year, did $240 something million in operating revenues, so we’re not talking about mom and pop operations that are just running over several
miles of line and also one of the major carriers was
the Montana Rail Link which in itself is a big
carrier, but is also owned by the Washington companies
and based on their website did a billion dollars, not
just in operating revenues but in the overall scheme
of things for those companies.

So, I mean, we’re not talking entirely
small companies. So the cry that they can’t afford to
do these things is somewhat disingenuous because there
is some money there and I’m not saying that every
small carrier around has these type of resources but
certainly many of them do. And as a result, I guess
the point is, is that what they’re claiming that they
can’t do now to stop the deterioration of these lines,
it seems to me in many instances can be done because
the resources do exist, especially in the instance of
Genesee and Wyoming.

The second point that seemed somewhat
illogical was with respect to the Petitioners’ claim
that this will result in less deterioration of the
lines because there won’t be as long a waiting period
due to this new abandonment procedure and also improve
the OFA process because when they abandon earlier because they’ll have the sure thing, as a result other companies will be more likely to come along at that time. And as a result the market will act.

And there is some logic obviously to that but the one part that I’m not seeing with respect to that logic is that there already is a market mechanism in place under various sections under the Act, which allow the carriers to sell off their lines without going through the abandonment procedure and, in fact, that is basically how many of these companies got started, the carriers -- more significantly, obviously, the major carriers sold off their marginal lines and these entities stepped in and were able to run them cheaper, mainly on the backs of -- a lot of times on lower labor costs because obviously these operations weren’t organized.

So in any event, I mean, those were two major points that jumped out at me and now I’ll give