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DEPT OF TRANSPORTATION
DOCKETS

2004 SEP 24 P 4: 12

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September 24, 2004

Docket Clerk
Department of Transportation
Central Docket Management Facility
Room PL-401
400 Seventh Street, S.W.
Washington, D.C. 20590-0001

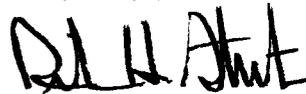
RE: FRA-2004-18746-9

Dear Gentlemen or Ladies:

Enclosed are three copies of the Comments of The Texas Mexican Railway Company ("Tex Mex") in response to the Union Pacific Railroad's Request for Air Brake and Inspection Waiver. As more fully explained in the Comments, Tex Mex supports the request for a waiver. However, it is opposed to the record retention proposal in that it would require Tex Mex to retain records related to the operations of the Union Pacific Railroad.

If additional information is required, please contact the undersigned at 202-408-6933. Two additional copies are enclosed with the request that they be date-stamped and returned. Thank you for your consideration in this matter.

Very truly yours,



Richard H. Streeter

RHS:rs
Enclosures

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Before the
Federal Railroad Administration
United States Department of Transportation

DEPT. OF TRANSPORTATION
DOCKETS
2004 SEP 24 P 4: 12

Docket No. FRA-2004-18746-1
Union Pacific Railroad Company Request For Air Brake and Inspection Waivers

Comments of The Texas Mexican Railway Company

The Texas Mexican Railway Company (“Tex Mex”), by and through its counsel of record, hereby files its Comments in response to the petition of the Union Pacific Railroad Company (“UPRR”) filed July 29, 2004.

The Waivers: Tex Mex Supports The UPRR Waiver Requests

By its petition, UPRR has requested a “waiver of 49 CFR 232.205 - Class I brake test-initial terminal inspection, 232.409 - Inspection and testing of end-of-train devices, 215.13 Pre-Departure Inspection, and 229.201, Locomotive Daily Inspection, as necessary to allow tests and inspections that are performed in Mexico by the Transportacion Ferroviaria Mexicana (TFM) to be considered valid for run-through trains interchanged at the Laredo, Texas Gateway.”

As UPRR observed, “[t]hese trains are pre-blocked in Mexico and currently receive a Class I air brake inspection and pre-departure mechanical inspection in Mexico at the TFM’s yard in Nuevo Laredo. Under present operating procedures, the trains travel only a few miles before receiving another Class I brake test and mechanical inspection in the United States. This proposal would save approximately five hours per run-through train and greatly reduce current congestion and increase capacity at the Laredo Gateway.”

Tex Mex agrees with UPRR’s proposal and supports a grant of the waiver. Indeed, should FRA grant the waiver, Tex Mex respectfully requests that the waiver be extended to its interchange operations with TFM which are effectively identical to those of UPRR. The same

savings and benefits that UPRR has identified apply with equal force to the Tex Mex operations. Should FRA decline to grant Tex Mex the same waivers in this docket, Tex Mex will file its own request, which will echo the positions taken by UPRR. Simply stated, what is good for UPRR is equally beneficial for Tex Mex.

G. Records Retention and J. Documentation of Class I Air Brake Test: Tex Mex Opposes the Records Retention Proposal

Although Tex Mex supports the grant of the waiver, it objects to and opposes those portions of the proposal that would require Tex Mex to maintain records at its Serrano Yard offices that are related to UPRR operations. UPRR's Request provides, as herein pertinent, that:

G. Records Retention

1. All required records will be retained by TFM and Tex Mex. It is presently anticipated the records will be kept at the Serrano Yard offices of the Texas Mexican Railroad (sic), as well as at TFM's Nuevo Laredo and Monterrey offices. All records at all locations in Mexico will be in the custody of the VP-Operations Support, TFM. The records retained at the Serrano Yard offices of the Texas Mexican Railroad (sic) will be in the custody of the Tex Mex Chief Mechanical Officer. The records will be in dual language format. The location where records are kept will not be changed without the FRA's consent.

J. Documentation of Class I Air Brake Test

1. As previously mentioned (section G above), all required records will be retained by Tex Mex and TFM. ...

The specific reasons for Tex Mex's objections to retaining UPRR's records are as follows:

- Tex Mex does not wish to subject itself to any potential liability with regard to maintenance of records that have nothing to do with its own operations, but which relate solely to UPRR's operations.

- UPRR maintains a terminal in Laredo that is located a few hundred feet from the International Railroad Bridge and is in the best position to maintain custody of the records that involve trains that are to be operated over the UPRR system.
- UPRR intends to conduct a “[m]onthly detailed review of defects noted.” If the records were to be maintained at Tex Mex’s facility, the monthly review could prove to be disruptive of Tex Mex’s administrative operations. Moreover, the monthly reviews would be facilitated if UPRR were to maintain its own records at its own facilities.
- The process that has been suggested imposes additional administrative costs on Tex Mex without any corresponding administrative benefits.

In closing, Tex Mex wishes to emphasize that if FRA were to grant its request that it be granted a waiver in this proceeding covering its run-through operations with TFM, Tex Mex would agree to retain the required inspection records at its Serrano Yard offices for its own operations.

Respectfully submitted,



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Dated: September 24, 2004