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# united transportation union



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### UPS Next Day Air

October 6, 2004

Docket Clerk  
DOT Docket Management Facility  
Room PL-401 (Plaza Level)  
400 7th Street, S.W.  
Washington, DC 20590

2004 OCT -7 P 12:17  
DEPT OF TRANSPORTATION  
DOCKETS

Re: Docket No: FRA-2004-18746-12

Dear Clerk:

Please find enclosed United Transportation Union's Comments for filing in the above-captioned matter.

Thank you for your cooperation.

Sincerely,

Daniel R. Elliott, III  
Associate General Counsel

Enclosure

cc: C. J. Miller, III, General Counsel

**BEFORE THE  
FEDERAL RAILROAD ADMINISTRATION  
UNITED STATES DEPARTMENT OF TRANSPORTATION**

DEPT. OF TRANSPORTATION  
DOCKETS

2004 001 - 7 P 12:47

**DOCKET NO. FRA-2004-18746-1**

**UNITED TRANSPORTATION UNION'S COMMENTS**

United Transportation Union ("UTU") respectfully submits its comments in the above-captioned proceeding in opposition to Union Pacific Railroad's ("UP") request for a waiver from the requirements of § 232.205 Class I Brake Test-Initial Terminal Inspection, § 232.409 Inspection and Testing of End-of-Train, § 215.13 Pre-departure Inspection, and § 229.21 Daily Inspection. UTU is the certified representative of train service employees on UP. UTU believes the granting of this request would cause serious safety problems for its members and the employees it represents on UP in the Texas area.

First, one life lost as a result of this waiver would be one too many. UTU asks the Federal Railroad Administration ("FRA") to give this matter the closest scrutiny possible in light of the uncharted territory being dealt with by having Transportation Ferroviaria Mexicana ("TFM") conduct inspections of trains entering the United States. UTU is wary of this request considering the fragile railroad operating situation which already exists in Texas, especially with respect to the UP.

Initially, UTU would like to commend the FRA for its ongoing efforts to improve the overall accidents/incidents and equipment accidents/incidents rates over the last several years. Also, UP has improved on its accident frequency rate over the last several years. UTU wants to see this trend continue and believes this waiver would be a step in the wrong direction.

Texas had the most railroad accidents (excluding highway-rail crossing) of any state from 2000-03 and had 10.4 percent of all United States accidents in 2003. It also had the most highway-rail crossing collisions, fatalities and injuries of any state in 2002. In addition, Texas had the second most

casualties of any state from 2000 to 2003 and the fourth most non-fatal incidents of any state from 2000 to 2003.

Moreover, it is not a secret that UP is presently in the midst of a service slow-down of immense proportions. This slow-down has resulted in congestion and rail yard back ups throughout Texas on the UP. A waiver of safety regulations during this unstable time period could only exacerbate the already precarious safety situation in Texas.

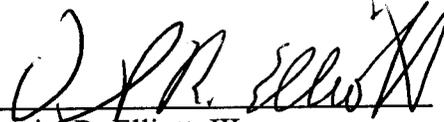
The reason UTU believes that the use of Transportation Ferroviaria Mexicana to conduct these inspections would increase safety problems in Texas is the relative lack of experience this railroad has in comparison to the UP. As a matter of review, the railroad system in Mexico had been run by the government from 1914 to 1996 under the name of Ferrocarriles Nacionales de Mexico. In 1995, this government-run operation only carried 15 percent of Mexican freight even with the poor highway and road conditions throughout the country. Generally, the government-run system was not considered to be successful.

As a result, in December of 1996, the Mexican government sold concessions to TFM, making it the largest privately-owned railroad in Mexico. Operations began on the TFM in June of 1998. Consequently, it is self-evident the TFM lacks the important experience to operate as safely as UP, which has been in existence since the 1860's.

As has been seen in recent large mergers in the United States on UP and CSXT, it takes railroads a significant period of time to adjust to large changes in the rail system. TFM is obviously going through some growing pains now since it only began to operate in 1997. Also, TFM is in the process of being bought by the KCS which will only further complicate its ability to run safely. Moreover, TFM has greatly increased in size over the years since its start-up which also causes concern about its constant state of flux.

Accordingly, UTU opposes the granting of this waiver especially during this time period where UP and TFM are not in their most stable conditions. UTU respectfully asks the FRA to have the parties, including labor, get together to reach a mutually acceptable solution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. R. Elliott, III", written over a horizontal line.

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