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October 8, 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-2004-18746-15

Dear Gentlemen or Ladies:

Enclosed are three copies of the Supplemental Comments of The Texas Mexican Railway Company ("Tex Mex") in response to the Union Pacific Railroad's Request for Air Brake and Inspection Waiver. 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

Before the
Federal Railroad Administration
United States Department of Transportation

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

Supplemental Comments of The Texas Mexican Railway Company

The Texas Mexican Railway Company ("Tex Mex"), by and through its counsel of record, hereby files its Supplemental Comments in response to the petition of the Union Pacific Railroad Company ("UPRR") filed July 29, 2004. In particular, Tex Mex takes issue with certain statements in the Oral Statement of Richard Johnson, the Division President of the Brotherhood Railway Carmen Division of the Transportation Communications International Union ("BRC").

Based on a redacted version of the Tex Mex comments,[1] Mr. Johnson claims that "Tex-Mex's withdrawal from UP's scheme underscores the difficulties posed were inspections to be performed outside the U.S. by carriers beyond the scope of FRA's enforcement authority." Oral Statement of Richard Johnson at 5. That claim is baseless.

Indeed, Tex Mex fully supports UPRR's waiver petition. Tex Mex's concerns have nothing to do with the merits of UPRR's waiver requests.

As reflected by its initial Comments, Tex Mex does not suggest that the waiver raises any difficulties with regard to safety or train operations. Tex Mex's concerns regarding record retention are merely administrative.

The shift of the proposed repository location from Tex Mex's Serrano Yard to another location, which will be identified by UPRR and TFM, will have no impact

[1] As it explained in its initial Comments herein, "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*

whatsoever on FRA's enforcement authority, the safety of operations, or the performance of the inspections covered by the waiver. Therefore, FRA should reject the negative inference that BRC has attributed to Tex Mex's decision to decline responsibility for the maintenance of UPRR's records and should grant the waiver as requested.

Respectfully submitted,

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Dated: October 8, 2004

UPRR's operations." (Emphasis added). For whatever reason, BRC chose to omit the italicized portion of Tex Mex's comments.