

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. EP 772

OVERSIGHT PERTAINING TO UNION PACIFIC RAILROAD COMPANY'S EMBARGOES

WRITTEN COMMENTS OF
NATIONAL ASSOCIATION OF CHEMICAL DISTRIBUTORS

The National Association of Chemical Distributors (NACD) respectfully submits these comments in response to the Surface Transportation Board's public hearing on Oversight Pertaining to Union Pacific Railroad Company's Embargoes. NACD is pleased that the Board is devoting attention to the issue of deteriorating freight rail service, beginning with the April 2022, Urgent Issues in Freight Rail Service hearing and continuing now with this proceeding focused on the dramatic increase in embargoes imposed by the Union Pacific Railroad Company (UP). Numerous NACD members have been adversely impacted by a lack of adequate rail service, including the UP embargoes.

NACD, established in 1971, is an international association of chemical distributors and their supply-chain partners. Member companies process, formulate, blend, re-package, warehouse, market, and transport chemical products for over 750,000 customers across the U.S. The industry that NACD represents is a major economic engine that generates \$7.5 billion in tax revenue. NACD's members range from small family-owned businesses to large national and international organizations. They meet the highest standards in safety and performance through mandatory participation in NACD Responsible Distribution[®], the association's third-party-



verified environmental, health, safety, and security program. Through Responsible Distribution, NACD members demonstrate their commitment to continuous improvement in every phase of chemical storage, handling, transportation, and disposal operations.

Transportation is critical to the chemical distribution industry. NACD members make millions of shipments, moving tens of millions of tons of products each year. In 2020, NACD members delivered products safely every 13.2 seconds. The chemical industry is one of the largest customers of freight rail in both volume and revenue, and many NACD members rely heavily on rail to ensure the timely shipment of products used in nearly every industry in the U.S. Unfortunately, railroads' use of precision scheduled railroading (PSR) in recent years has led to an insufficient workforce and a significant decline in service.

Univar Solutions, which provided testimony during this hearing, is one of NACD's largest members. The issues Mr. Rob McRae outlined in his statement are representative of those faced by numerous other NACD members.

NACD is highly concerned with deteriorating rail service, including the increasing use of embargoes by UP. Poor rail service has been a significant contributor to the severe supply chain problems that have plagued American businesses and consumers in recent months and years. NACD members, their customers, and our entire nation depend on the freight railroads to deliver essential products in a timely manner. These include chemicals needed for water treatment, food production, pharmaceuticals, energy, and numerous other materials essential to public health and well-being. Delays and embargoes of shipments of these products can have severe consequences, such as a lack of chlorine municipalities need to treat water for their communities.

In the announcement for this hearing, the Board provided a chart demonstrating that the number of UP embargoes increased from 19 in 2017 to 886 as of October 2022. The chart also



shows that congestion was the cause of 94 percent of the embargoes in 2021 and 98 percent of the embargoes this year. Congestion includes a shortage of resources to meet the demand, and a key element of this is lack of an adequate workforce. As the railroads adopted PSR, they substantially reduced their workforces, leaving little or no room for unexpected absences. This problem came into focus this fall when the nation twice came perilously close to a rail shutdown because of a stalemate in the negotiations between the railroads and labor over a new contract. The biggest sticking point was sick time for rail workers, which has been woefully inadequate in recent years. The railroads have been unable to provide reasonable sick leave time to rail workers because they have dramatically reduced their workforces and there is no one to fill in if there is an absence. This results in an inability to provide service to the customers who rely on it, otherwise known as congestion, the most common reason for embargoes in recent years.

NACD commends the Board for conducting oversight on these critical issues, including holding this hearing on UP's increasing use of embargoes, holding the Urgent Issues in Freight Rail Service hearing last April, and requiring the Class I railroads to submit service recovery plans under the May 6, 2022, order in EP 770. In order to have a well-functioning freight rail network that meets the public's needs for clean water and other critical products for modern life, the railroads need to address the underlying reasons for poor service and address these issues, including assurance they have healthy and fully staffed workforces.

NACD members need reliable, efficient, and affordable rail service to run their businesses successfully and serve their customers. NACD looks forward to working with the Board to address the problems of embargoes and other service issues and to create a more favorable rail service environment for the thousands of customers who depend on this critical transportation mode to move products and our economy forward.

Advancing Stewardship, Creating Connections™

4201 Wilson Blvd, Suite 0515
Arlington VA, 22203
(P) 703.527.6223 (F) 703.527.7747
nacd.com



Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer C. Gibson". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer C. Gibson
Vice President, Regulatory Affairs

Advancing Stewardship, Creating Connections™

4201 Wilson Blvd, Suite 0515
Arlington VA, 22203
(P) 703.527.6223 (F) 703.527.7747
nacd.com

