

EXPEDITED CONSIDERATION REQUESTED

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. EP 772

OVERSIGHT PERTAINING TO UNION PACIFIC RAILROAD COMPANY'S
EMBARGOES

**UNION PACIFIC RAILROAD COMPANY'S REQUEST
FOR PROTECTIVE ORDER**

CRAIG V. RICHARDSON
JAMES B. BOLES
TONYA W. CONLEY
WHITNEY C. LARKIN
Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179

MICHAEL L. ROSENTHAL
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, D.C. 20001
(202) 662-6000

Attorneys for Union Pacific Railroad Company

December 22, 2022

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. EP 772

OVERSIGHT PERTAINING TO UNION PACIFIC RAILROAD COMPANY'S
EMBARGOES

**UNION PACIFIC RAILROAD COMPANY'S REQUEST
FOR PROTECTIVE ORDER**

During the public hearing held in the above-captioned matter on December 13 and 14, 2022, the Surface Transportation Board asked Union Pacific Railroad Company to submit a variety of records that contain material that would qualify as “confidential commercial information” under the Board’s rules regarding predisclosure notification procedures for confidential commercial information. The Board’s rules define “confidential commercial information” as:

records provided to the government by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

49 C.F.R. § 1001.4(a)(1).

To expedite production of the requested records, UP asks the Board to issue an order (i) allowing UP to designate information submitted in response to the requests as “confidential commercial information” by indicating on documents it produces to the Board that they contain “Confidential Commercial Information, Subject to Exemption 4 of FOIA,” and (ii) providing that the Board will treat any information so designated as nonpublic, confidential commercial information and treat UP as the submitter of the information subject to all the protections provided in 49 C.F.R. § 1001.4.

Respectfully submitted,

CRAIG V. RICHARDSON
JAMES B. BOLES
TONYA W. CONLEY
WHITNEY C. LARKIN
Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179

/s/ Michael L. Rosenthal
MICHAEL L. ROSENTHAL
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, D.C. 20001
(202) 662-6000

Attorneys for Union Pacific Railroad Company

December 22, 2022