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Via Electronic Filing

The Honorable Martin Oberman, Chairman
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

The Honorable Karen Hedlund, Vice Chairman
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

The Honorable Patrick Fuchs
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

The Honorable Robert Primus
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

The Honorable Michelle Schultz
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

Re: **Docket No. EP 770(1) – Urgent Issues in Freight Rail Service---Railroad Reporting**

Dear Chairman Oberman, Vice Chairman Hedlund, Board Members Fuchs, Primus, and Schultz,

Per the Surface Transportation Board's January 31, 2024 decision, Union Pacific is respectfully submitting monthly employment data which includes the information through February 29, 2024. On February 14, 2024, Union Pacific filed a Motion for Protective Order in the above-referenced docket.

For reasons described in Union Pacific's February 15, 2024 employment data filing, this monthly employment data is submitted as confidential pursuant to the proposed protective order. A public version is also being submitted, and the confidential version of the monthly employment data has been provided to the Office of Public Assistance, Governmental Affairs, and Compliance.

If the Board declines to grant Union Pacific's Motion for Protective Order or determines that these materials are not exempt from public disclosure as confidential commercial information under FOIA Exemption 4, Union Pacific respectfully requests that the Board provide sufficient

opportunity for Union Pacific to respond before making any portion of this employment data public. While the proposed protective order has not yet issued, Union Pacific encourages the Board to follow its ordinary practice of using protective orders to secure information for itself and interested parties while protecting sensitive materials from public disclosure. Departing from that practice here would implicate the Trade Secrets Act, 18 U.S.C. § 1905, which protects “practically any commercial or financial data” collected by federal agencies. *CNA Fin. Corp. v. Donovan*, 830 F.2d 1132, 1140 (D.C. Cir. 1987). Because the Trade Secrets Act is “at least coextensive” with FOIA Exemption 4, *id.* at 1144, the Board legally cannot disclose this information publicly for the reasons Union Pacific has already explained.

Please contact me if you have any questions.

Regards,

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

Jennifer L. Galer

Enclosure

cc: Ms. Cynthia T. Brown, Chief, Section of Administration, Office of Proceedings

REDACTED – TO BE PLACED ON PUBLIC FILE

**Attachment Contains
Confidential Information**