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AUG 15 2012

**Surface Transportation Board**  
**Washington, D.C. 20423-0001**  
**Office of Economics**

August 10, 2012

232790

Mr. Michael Rosenthal  
Covington & Burling LLP  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2401

ENTERED  
Office of Proceedings  
August 15, 2012  
Part of  
Public Record

Dear Mr. Rosenthal:

You represent Union Pacific in *Petition for Rulemaking to Adopt Revised Competitive Switching Rules*, Docket No. EP 711. We are in receipt of your request, dated August 7, 2012, seeking waybill access as part of your participation in that proceeding. The Surface Transportation Board (STB) will release to you the unmasked STB Carload Waybill Sample for the most recent year. As you are aware, use of this information is limited to this proceeding. ***This approval becomes effective when your signed agreement is received by the STB.***

The rules for release of waybill data are codified at 49 C.F.R. § 1244.9. The waybill data contain confidential shipper and railroad data. As a result, waybill data are commercially sensitive and have the potential for competitive harm to shippers and railroads, including third-party railroads. This Waybill Data may be accessed only by employees of your firm as outside counsel of record in this proceeding, and by those individuals working with or assisting such counsel who are not regular employees of the party and have a need to know, review, or handle the confidential material for purposes of the proceeding, including testifying and consulting experts, provided each such person has been given and has read a copy of this letter, agrees to be bound by its terms, and executes the attached undertaking prior to receiving access to such materials.

Therefore, the following agreement must be signed before any Waybill Data can be released.

Your signature acknowledges your agreement to comply with the following:

1. Waybill Data may be disclosed only to outside counsel of record in this proceeding, and to those individuals working with or assisting such counsel who are not regular employees of the party and have a need to know, review, or handle the Waybill Data for purposes of the proceeding, including testifying and consulting experts, provided each such person has been given and has read a copy of this Protective Order, agrees to be bound by its terms, and executes the attached Undertaking for Waybill Data prior to receiving access to such materials.

2. Each Undertaking for Waybill Data executed by a person authorized to receive access to Waybill Data shall be kept for the duration of this proceeding and any related court litigation or judicial appeals by the party with which such person is affiliated or associated, and a copy of each such Undertaking shall be provided to the STB's Office of Economics no later than 10 days after such Undertaking is executed.

3. Waybill Data shall be used by a receiving party solely for the purpose of this proceeding and any judicial review proceeding arising therefrom, and not for any other business, commercial, or competitive purpose.

4. All copies of the Waybill Data must be destroyed at the completion of this proceeding and any judicial review proceeding arising therefrom, except that outside counsel (but not outside consultants) for each party are permitted to retain file copies of all pleadings and evidence filed with the Board and file copies of all work products.

5. Waybill Data, if contained in any pleading or evidence filed with the Board, shall, in order to be kept confidential, be filed only in pleadings or evidence submitted in a package clearly marked on the outside "Highly Confidential Materials Containing Waybill Data Subject to Protective Order." See 49 C.F.R. § 1104.14.

6. If any party intends to use Waybill Data at hearings in this proceeding, or in any judicial review proceeding arising therefrom, the party so intending shall submit any proposed exhibits or other documents setting forth or revealing such Waybill Data to the Board, a court, or an Administrative Law Judge, with a written request that the Board, the court, or the Administrative Law Judge: (a) restrict attendance at the hearings during discussion of such Waybill Data; and (b) restrict access to the portion of the record or briefs reflecting discussion of such Waybill Data in accordance with the terms of this Protective Order.

7. If any party intends to use Waybill Data in the course of any deposition in this proceeding, the party so intending shall so advise counsel for the deponent, and all other counsel attending the deposition. Attendance at any portion of the deposition at which any such Waybill Data is used shall be restricted to persons who may review the material under this Protective Order. All portions of deposition transcripts and/or exhibits that consist of or disclose Waybill Data shall be kept under seal and treated as Highly Confidential Waybill Data in accordance with the terms of this Protective Order.

8. To the extent that material reflecting the terms of contracts, shipper-specific traffic data, other traffic data, or other proprietary information is produced or otherwise disclosed by a party in this or any related proceedings and is held and used by the receiving person in compliance with this Protective Order, such production, disclosure, and use of the material and of the data that the material contains will be deemed essential for the disposition of this and any related proceedings and will not be deemed a violation of 49 U.S.C. § 11904.

9. Except for this proceeding, if a party is required by law or order of a governmental or judicial body to release Waybill Data, the party so required shall notify the Board in writing within 3 working days of the determination that the Waybill Data are to be released or within 3 working days prior to such release, whichever is soonest.

10. Failure to request an extension, return the data, or destroy the data may prevent any future release of waybill data from the STB.

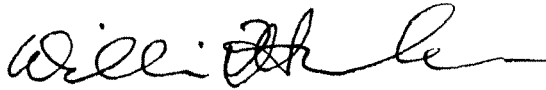
11. Violations of this protective order are subject to sanctions by the Board under 49 C.F.R. § 1244.9(g).

12. Egregious violations of this protective order, as determined by the Board, may be subject to sanctions including, but not limited to, disbarment from representing or presenting evidence on behalf of any client in any Board proceeding or matter for a period of time determined by the Board.

13. Improper disclosure of Waybill Data is also subject to civil penalties under 49 U.S.C. § 11904.

We would appreciate your signing and returning this agreement as soon as possible.

Sincerely,



William Huneke  
Director/ Chief Economist

Agreed:

Covington & Burling LLP

Company



Signature

Michael L. Rosenthal

Name - Please Print

Of Counsel

Title

8/15/12

Date