

244209

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**ENTERED**  
Office of Proceedings  
August 29, 2017  
Part of  
Public Record

Arkema Inc.

Complainant

vs.

Union Pacific Railroad Company

Defendant

Docket No. NOR 42153

**REPLY OF ARKEMA, INC. TO  
UNION PACIFIC'S MOTION FOR CONSOLIDATION**

Arkema Inc. ("Arkema") hereby replies to "Union Pacific's Motion for Consolidation," filed by Defendant, Union Pacific Railroad Company ("UP"), on August 9, 2017 ("Motion"). UP asks the Board to consolidate this proceeding with Docket Nos. NOR 42144, 42150, and 42152, which the Board previously consolidated in its decision served March 31, 2017. Arkema neither supports nor opposes UP's Motion.

Arkema takes no position individually on UP's Motion because whatever prejudice may result from consolidation will devolve solely upon the complainants in the other proceedings. The inevitable delay of consolidation – estimated to be at least an additional 9 months - will be felt in those proceedings, especially Docket NOR 42144, which has been pending since March 2015, and the members of the trade association complainants in that docket who have been paying, and will continue to pay UP's unlawful charges, until the Board issues a final decision on the merits of these cases. Therefore, Arkema defers to those complainants and their response to UP's Motion.

For its part, Arkema is prepared to partake in discovery in as efficient and expeditious a manner as possible. That said, UP's representation of its willingness "to agree that Arkema could simply search for and produce the same materials the shipper parties agreed to search for and produce in NOR 42144 based on the parties' negotiations and guidance provided by Judge Dring," UP Motion at 8 and 12, appears to be at odds with its conduct thus far. Rather than serve discovery equivalent to the negotiated discovery reached with the other individual defendants, instead UP chose to serve Arkema with discovery that is far broader (*See* Exhibit A hereto). Precisely what narrower scope of discovery UP has in mind may become more evident after some discussion between Arkema and UP.

For example, the scope of UP's discovery of each complainant often has been defined by negotiations surrounding how, where and in what form each complainant maintains its information. The most appropriate search terms to identify responsive documents without requiring Arkema to review of thousands of non-responsive documents to find the proverbial "needle in the haystack" that UP is seeking also may differ between complainants, requiring a certain amount of "trial and error" before agreeing upon appropriate terms. Indeed, much of the information requested by UP pertains to routine correspondence that can be very difficult to cull from the tens of thousands of e-mails and other communications that are completely unrelated to UP's discovery requests.

Nor has UP made any attempt to pose discovery requests that more narrowly reflect the information UP purports to truly require to defend against the complaints in these various proceedings. UP suggests that any delay to the other proceedings will be minimal because "Arkema can move expeditiously to provide discovery because of the already existing framework established by Union Pacific, the complainants in the NAFCA Case, and Judge

Dring,” Motion at 11-12. That same logic, however, also suggests that UP may not require the same full array of discovery from Arkema. Perhaps that is UP’s intent. But if so, that is not evident in either the discovery requests UP has served upon Arkema or the UP Motion.

Arkema reiterates that it is prepared to participate in discovery consistent with the scope of discovery UP has obtained from other individual complainants. Arkema notes, however, that such discovery will require more time to complete than if UP were to limit its discovery to essential, non-duplicative information. Because the impact of that delay will fall principally upon complainants in the other Board proceedings, Arkema defers to their position on consolidation.

Respectfully submitted,



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*Counsel for Arkema Inc.*

Dated: August 29, 2017

## CERTIFICATE OF SERVICE

I hereby certify that on this August 29, 2017, I have served a copy of the foregoing Reply  
via electronic mail to the following individuals:

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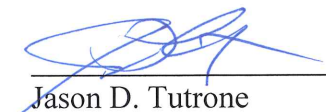
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\_\_\_\_\_  
Jason D. Tutrone

# **Exhibit A**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

|                                 |   |           |
|---------------------------------|---|-----------|
| ARKEMA INC.,                    | ) |           |
|                                 | ) |           |
|                                 | ) |           |
| Complainants,                   | ) | NOR 42153 |
|                                 | ) |           |
| v.                              | ) |           |
|                                 | ) |           |
| UNION PACIFIC RAILROAD COMPANY, | ) |           |
|                                 | ) |           |
| Defendant.                      | ) |           |
|                                 | ) |           |

**UNION PACIFIC’S FIRST SET OF DISCOVERY REQUESTS TO ARKEMA INC.**

Pursuant to 40 C.F.R. §§ 1114.26 and 1114.30, Union Pacific Railroad Company requests that Arkema Inc. (“Arkema”) produce documents and information responsive to the following requests to Michael L. Rosenthal at Covington & Burling LLP, One CityCenter, 850 Tenth Street NW, Washington, D.C. 20001, no later than August 18, 2017.

**DEFINITIONS**

- A. “Car Owner” means the Person to whom a tank car’s reporting mark is assigned.
- B. “Communication” means any transmission or receipt of information by one or more Persons and/or between two or more Persons by means including but not limited to telephone conversations, letters, telecopies, electronic mail, text messages, written memoranda, and in-person conversations.
- C. “Complaint” refers to the complaint filed in this matter on August 1, 2017.
- D. “Document” means all types of documents that are subject to discovery under the Board’s rules at 49 C.F.R. § 1114.30(a)(1). “Document” includes every copy of a document that is not identical to the original or any other copy.

E. “Identify” when used with respect to a movement of a rail car means to state the waybill number, the date the movement began, the car number, the origin, the destination, the carriers in the route, any interchange points, and the total miles.

F. “Identify” when used with respect to a communication means to state the method of communication (*e.g.*, in person, by telephone, by email), the persons participating in the communication and anyone receiving a copy of the communication, and the date of the communication and to state in general terms the content of the communication.

G. “Identify” when used with respect to a lease agreement means to state the parties to the agreement, the date of the agreement and any amendments, the term of the agreement, the cars subject to the agreement, and the date the lessee took possession of the cars.

H. “Item 55-C” means Item 55-C in UP Tariff 6004.

I. “Person” means a corporation, company, partnership, trade association, or natural person.

J. “Repair Facility” means any facility that cleans, lines, relines, maintains, modifies, repairs, or retrofits tank cars.

K. “Union Pacific” means Union Pacific Railroad Company and its predecessor railroads.

L. “You” and “Your” refer to Arkema, as well as any of Arkema’s employees, agents, officers, directors, advisors, independent contractors, expert consultants, and all other Persons acting or who have acted on Arkema’s behalf.

## **INSTRUCTIONS**

1. Unless a different time period is specified, these requests cover the period from January 1, 2001 to the time responsive information and documents are served on Union Pacific.

2. For each and every document request, You are required to produce any documents in Your possession, custody, or control.

3. If You for any reason withhold documents or information responsive to any of these requests, You should state the specific factual and legal basis for doing so and produce documents or information for any part of the request or interrogatory that is not alleged to be objectionable or to call for production of protected information. If You withhold documents on the basis of a claimed privilege or attorney work product, then for each such document, You should provide the following information: the document's date, type (e.g., letter, memo, notes), author(s), addressee(s), other recipient(s), general subject matter, and the basis for withholding the document or information.

4. Identify all persons who provided information for each response, and state which response(s) the person provided information for.

5. These requests are continuing in character so as to require You to supplement in accordance with 49 C.F.R. § 1114.29.

### **INTERROGATORIES**

#### **Interrogatory No. 1**

Identify the number of tank cars that You currently (a) own or (b) use pursuant to a lease agreement.

#### **Interrogatory No. 2**

Are You seeking reparations or damages for transportation provided under contracts under Count I of the Complaint? If so, identify the contract(s).

**Interrogatory No. 3**

Do You lease tank cars to another Person pursuant to a lease agreement under which You will retain some or all of any mileage allowances paid on those cars? If so, identify the lease agreement(s).

**Interrogatory No. 4**

Do You lease tank cars to another Person pursuant to a lease agreement under which You must pass along to the lessee some or all of any mileage allowances paid on those cars? If so, identify the lease agreement(s).

**Interrogatory No. 5**

Do You lease tank cars from another Person pursuant to a lease agreement under which the Car Owner will retain some or all of any mileage allowances paid on those cars? If so, identify the Car Owner(s) and the lease agreement(s).

**Interrogatory No. 6**

Do You lease tank cars from another Person pursuant to a lease agreement under which the Car Owner must pass along to You some or all of any mileage allowances paid on those cars? If so, identify the Car Owner(s) and the lease agreement(s).

**Interrogatory No. 7**

Do You lease tank cars to another Person pursuant to a lease agreement under which the lessee must make a payment to You if the total empty miles moved by the lessee's cars that are subject to lease exceed the total loaded miles moved by the lessee's cars that are subject to the lease by more than a specified amount or percentage? If so, identify the lease agreement(s).

**Interrogatory No. 8**

Do You lease tank cars to another Person pursuant to a lease agreement under which the lessee is not required to make a payment to You if the total empty miles moved by the lessee's cars that are subject to the lease exceed the total loaded miles moved by the lessee's cars that are subject to the lease by more than a specified amount or percentage? If so, identify the lease agreement(s).

**Interrogatory No. 9**

Do You lease tank cars from another Person pursuant to a lease agreement under which You must make a payment to the Car Owner if the total empty miles moved by Your cars that are subject to the lease exceed the total loaded miles moved by Your cars that are subject to the lease by more than a specified amount or percentage? If so, identify the lease agreement(s).

**Interrogatory No. 10**

Do You lease tank cars from another Person pursuant to a lease agreement under which You are not required to make a payment to the Car Owner if the total empty miles moved by Your cars that are subject to the lease exceed the total loaded miles moved by Your cars that are subject to the lease by more than a specified amount or percentage? If so, identify the lease agreement(s).

**Interrogatory No. 11**

Do You contend that when a private tank car is furnished to Union Pacific by a Person that is a lessee of the car, Union Pacific is required to pay a mileage allowance to (a) the lessee, or (b) the lessor? If You contend that the answer depends on the circumstances, state the circumstances that You contend are relevant.

**Interrogatory No. 12**

Do You contend that when a Person that is not the Car Owner directs Union Pacific to move an empty private tank car to or from a Repair Facility, Union Pacific can recover the costs associated with the empty miles only from the Car Owner? If You contend that the answer depends on the circumstances, state the circumstances that You contend are relevant.

**Interrogatory No. 13**

Do You contend that Union Pacific may not provide common carrier transportation in private tank cars under zero-mileage rates? If You contend that the answer depends on the circumstances, state the circumstances that You contend are relevant.

**Interrogatory No. 14**

Identify each movement of an empty tank car owned or leased by You to or from a Repair Facility, and identify the Repair Facility to or from which the car moved and the work performed at the Repair Facility.

**Interrogatory No. 15**

Identify each movement for which You have been assessed a charge under Item 55-C and for which You are seeking reparations under Count I, and identify the amount of the charge, the Repair Facility to or from which the car moved, and the work performed at the Repair Facility.

**Interrogatory No. 16**

Identify each movement for which You have been assessed a charge by a railroad other than Union Pacific for the movement of a private tank car to a Repair Facility, and identify the railroad that assessed the charge, and amount of the charge, and whether You paid the charge.

**Interrogatory No. 17**

Separately by each car reporting mark assigned to You, and separately for each year from 2001 through 2016, with respect to Your tank cars, state:

- a. The number of loaded miles the cars moved on Union Pacific
- b. The total number of loaded miles the cars moved on all railroads
- c. The number of empty miles the cars moved on Union Pacific
- d. The total number of empty miles the cars moved on all railroads
- e. The number of empty miles on Union Pacific associated with the cars' movements to or from Repair Facilities
- f. The total number of empty miles on all railroads associated with the cars' movements to or from Repair Facilities

**Interrogatory No. 18**

Separately by each car reporting mark for tank cars You furnished to Union Pacific or other railroads but did not own, and separately for each year from 2001 through 2016, state:

- a. The number of loaded miles the cars moved on Union Pacific
- b. The total number of loaded miles the cars moved on all railroads
- c. The number of empty miles the cars moved on Union Pacific
- d. The total number of empty miles the cars moved on all railroads
- e. The number of empty miles on Union Pacific associated with the cars' movements to or from Repair Facilities
- f. The total number of empty miles on all railroads associated with the cars' movements to or from Repair Facilities

**Interrogatory No. 19**

Separately by each car reporting mark assigned to You, state the amount billed to You pursuant to the Freight Tariff RIC 6007-Series for empty mileage associated with movements of tank cars, separately for each year from 2001 through 2016.

**Interrogatory No. 20**

Separately by each car reporting mark assigned to You, state the amount You charged Persons leasing Your tank cars for cost associated with empty mileage movements by those cars, separately for each such lessee, separately for each year from 2001 through 2016.

**Interrogatory No. 21**

Separately by each car reporting mark for tank cars You furnished to Union Pacific or other railroads but that were not owned by You, state the amount the Car Owner billed You to cover costs associated with empty mileage movements by those cars, separately for each year from 2001 through 2016, and separately for each lease agreement, if cars were subject to different lease agreements during a calendar year.

**Interrogatory No. 22**

Identify all communications regarding Union Pacific's adoption of charges for empty movements of tank cars in Item 55-C with:

- a. Other Persons within Arkema
- b. Persons to whom You lease tank cars
- c. Persons from whom You lease tank cars
- d. Repair Facilities
- e. Union Pacific
- f. Any Complainant in STB Docket Nos. NOR 42144, NOR 42150, or NOR 42152

**Interrogatory No. 23**

Describe all changes in Your practices related to sending tank cars to Repair Facilities that have resulted from Union Pacific's adoption of Item 55-C.

**Interrogatory No. 24**

Identify all communications between You and Union Pacific in which You asked Union Pacific to establish rates for movements in tank cars that included payment of a mileage allowance.

**Interrogatory No. 25**

Identify all communications between You and a railroad other than Union Pacific in which You asked the railroad to establish rates for movements in tank cars that included payment of a mileage allowance.

**Interrogatory No. 26**

Identify all communications between You and Union Pacific in which You asked Union Pacific to establish reduced line-haul rates to reflect Your furnishing tank cars.

**Interrogatory No. 27**

Identify all communications between You and a railroad other than Union Pacific in which You asked the railroad to establish reduced line-haul rates to reflect Your furnishing tank cars.

**Interrogatory No. 28**

With regard to each tank car owned by You, state:

- a. Car number
- b. Year the car was built
- c. Year the car was acquired
- d. Car's cost as acquired
- e. Costs of any subsequent modifications or additions to the car
- f. Total loaded miles moved, separately for each year from 2005 through 2016

- g. Total empty miles moved, separately for each year from 2005 through 2016
- h. Costs for programmed maintenance of valves, separately for each year from 2005 through 2016
- i. Other maintenance costs, separately for each year from 2005 through 2016
- j. Costs for car cleaning, separately for each year from 2005 through 2016
- k. Repair costs, separately for each year from 2005 through 2016
- l. Storage costs, separately for each year from 2005 through 2016
- m. Taxes paid on the car, separately for each year from 2005 through 2016
- n. Total number of empty movements to or from Repair Facilities, separately for each year from 2005 through 2016
- o. Total number of miles associated with empty movements to or from Repair Facilities, separately for each year from 2005 through 2016
- p. Total payments received from lessees, if any, separately for each year from 2005 through 2016
- q. Payments received from lessees for maintenance and repair costs You incurred, separately for each year from 2005 through 2016
- r. Payments to/credits to lessees for maintenance and repair costs incurred by lessees, separately for each year from 2005 through 2016
- s. The lease agreement(s) that governed use of the car in each year from 2005 through 2016

**Interrogatory No. 29**

For each tank car You used pursuant to a lease, state:

- a. Car number
- b. Loaded miles moved, separately for each year from 2005 through 2016
- c. Empty miles moved, separately for each year from 2005 through 2016
- d. Costs for programmed maintenance of valves You incurred, separately for each year from 2005 through 2016

- e. Other maintenance costs You incurred, separately for each year from 2005 through 2016
- f. Costs for car cleaning You incurred, separately for each year from 2005 through 2016
- g. Repair costs You incurred, separately for each year from 2005 through 2016
- h. Storage costs You incurred, separately for each year from 2005 through 2016
- i. Number of empty movements to or from repair shops, separately for each year from 2005 through 2016
- j. Number of miles associated with empty movements to or from Repair Facilities, separately for each year from 2005 through 2016
- k. Total payments You made to the lessor, separately for each year from 2005 through 2016
- l. Payments/credits You received from the lessor for maintenance and repair costs as reimbursement for costs You incurred, separately for each year from 2005 through 2016
- m. Payments You made to the lessor for maintenance and repair costs incurred by the lessor, separately for each year from 2005 through 2016
- n. The lease agreement(s) that governed use of the car in each year from 2005 through 2016

**Interrogatory No. 30**

Separately for each year from 2005 through 2016, state for Arkema:

- a. Number of tank cars owned
- b. Total number of rail cars owned
- c. Taxes on fixed property used for repair, cleaning, maintenance, or storage of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- d. Depreciation on fixed property used for repair, cleaning, maintenance, or storage of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- e. Insurance on fixed property used for repair, cleaning, maintenance, or storage of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- f. Rentals on track and other property when used for repair, cleaning, maintenance, or storage of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)

- g. Insurance paid on (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- h. Market value of machinery used for repair, cleaning, or maintenance of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- i. Costs for repair of shop machinery used for repair, cleaning, or maintenance of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- j. Market value of material inventory used for repair, cleaning, or maintenance of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- k. Wages and benefits paid to employees engaged in repair, cleaning, or maintenance of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- l. Payroll taxes paid in connection with employees engaged in repair, cleaning, or maintenance of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- m. Payments for injuries or death during repairs when not covered by insurance for repairs of (i) tank cars, or (ii) all cars (if separate data for tank cars are not available)
- n. Payments to third parties that are not directly allocated to specific cars for tank car (i) repair, (ii) cleaning, (iii) maintenance, or (iv) storage (or payments to third parties for repair, cleaning, etc. for all cars, if separate data for tank cars are not available)
- o. Any costs of owning and operating tank cars You owned that are not addressed in subsections a-n

**Interrogatory No. 31**

Separately for each year from 2001 through 2016, state for Arkema:

- a. Number of tank cars used under a lease agreement, separately for each lease agreement
- b. Separately for each Car Owner and for each lease agreement, payments to Car Owners that are not directly allocated to specific cars, for tank car (i) repair, (ii) cleaning, (iii) maintenance, or (iv) storage

**Interrogatory No. 32**

Separately for each year from 2001 through 2016, state:

- a. separately by railroad (i) the number of tank cars movements for which You were paid a mileage allowance, (ii) the total number of miles on which You were paid allowances, and (iii) the total amount of allowances paid to You

- b. separately by railroad (i) the number of tank car movements for which You were not paid a mileage allowance, and (ii) the total number of miles on which You were not paid allowances

**Interrogatory No. 33**

With regard to the allegation in Paragraph 26 of the Complaint that Union Pacific “does not pay mileage allowances to Arkema for UP’s use of tank cars provided by Arkema, or otherwise compensate Arkema for providing tank cars for the benefit of UP,” state on an annual basis over the past 10 years the amount You contend to be Arkema’s costs “for providing tank cars for the benefit of UP” and explain the basis for that amount.

**Interrogatory No. 34**

With regard to the allegation in Paragraph 26 of the Complaint that Union Pacific “does not pay mileage allowances to Arkema for UP’s use of tank cars provided by Arkema, or otherwise compensate Arkema for providing tank cars for the benefit of UP,” state the amount of compensation You contend Union Pacific should have provided to “otherwise compensate” Arkema for providing tank cars and explain the basis for that amount.

**Interrogatory No. 35**

Identify the factors You use in deciding which Repair Facility to use for tank cars You own or lease that require empty movement to a Repair Facility.

**Interrogatory No. 36**

Identify the Persons who are responsible for:

- a. Deciding which Repair Facility will be used for tank cars You own or lease.
- b. Deciding when to direct tank cars You own or lease to a Repair Facility.
- c. Negotiating lease terms for tank cars You own or lease.
- d. Paying or billing for empty mileage payments required with regard to tank cars You own or lease.

- e. Requesting rates from railroads for transportation of products in tank cars.

**Interrogatory No. 37**

Identify all communications regarding charges by railroads other than Union Pacific for empty movements of tank cars to or from repair facilities with:

- a. Other Persons within Arkema
- b. Persons to whom You lease tank cars
- c. Persons from whom You lease tank cars
- d. Repair Facilities
- e. Railroads other than Union Pacific
- f. Any Complainant in STB Docket Nos. NOR 42144, NOR 42150, or NOR 42152

**DOCUMENT REQUESTS**

**Document Request No. 1**

Produce all documents identified in Your answers to the Interrogatories.

**Document Request No. 2**

Produce all documents, regardless of date, supporting Your allegation in Paragraph 11 of the Complaint that “UP recouped the costs of providing such transportation” [i.e., “transporting empty tank cars to and from repair facilities”] “through its line-haul rates on loaded tank car movements.”

**Document Request No. 3**

Produce all documents, regardless of date, supporting Your allegation in Paragraph 26 of the Complaint that Union Pacific “does not pay mileage allowances to Arkema of UP’s use of tank cars provided by Arkema, or otherwise compensate Arkema for providing tank cars for the benefit of UP.”

**Document Request No. 4**

Produce all documents, regardless of date, that contain, reflect, or otherwise refer or relate to any study, analysis, or report of the cost of owning tank cars.

**Document Request No. 5**

Produce all documents, regardless of date, that contain, reflect, or otherwise refer or relate to any study, analysis, or report of the cost of maintaining tank cars.

**Document Request No. 6**

Produce all documents, regardless of date, that contain, reflect, or otherwise refer or relate to any study, analysis, or report of the level of any line-haul rate(s) under zero-mileage terms as compared with rate terms providing for payment of mileage allowances.

**Document Request No. 7**

Produce all documents, regardless of date, that contain, reflect, or otherwise refer or relate to any study, analysis, or report of the relationship between mileage allowance levels and tank car ownership costs.

**Document Request No. 8**

Produce all documents, regardless of date, that contain, reflect, or otherwise refer or relate to any study, analysis, or report of compensation paid by railroads for use of private cars.

**Document Request No. 9**

Produce all documents, regardless of date, that contain, reflect, or otherwise refer or relate to any study, analysis, or report of the costs of moving empty cars.

**Document Request No. 10**

Produce all documents regardless of date, that contain, reflect, or otherwise refer or relate to a request that Union Pacific establish rates for transportation in tank cars that include payment of mileage allowances.

**Document Request No. 11**

Produce all documents, regardless of date, that contain, reflect, or otherwise refer or relate to a request that a railroad other than Union Pacific establish rates for transportation in tank cars that include payment of mileage allowances.

**Document Request No. 12**

Produce all documents, regardless of date, that contain, reflect, or otherwise refer or relate to a request that Union Pacific establish lower rates for transportation in tank cars to reflect Your furnishing tank cars.

**Document Request No. 13**

Produce all documents, regardless of date, that contain, reflect, or otherwise refer or relate to a request that a railroad other than Union Pacific establish rates for transportation in tank cars to reflect Your furnishing tank cars.

**Document Request No. 14**

Produce a copy of each lease under which You are the lessee of tank cars furnished to Union Pacific in any year from 2001 through 2016.

**Document Request No. 15**

Produce a copy of each lease under which You are the lessor of tank cars furnished to Union Pacific in any year from 2001 through 2016.

**Document Request No. 16**

With respect to the leases produced in response to Document Request Nos. 14 and 15, produce documents sufficient to identify which tank cars were subject to each lease.

**Document Request No. 17**

Produce all documents that refer or relate to Item 55-C.

**Document Request No. 18**

Separately for each year from 2001 through 2016, produce documents sufficient to show Your costs of owning tank cars, as well as the extent to which those costs are reimbursed by lessees of Your tank cars.

**Document Request No. 19**

Separately for each year from 2001 through 2016, produce documents sufficient to show Your costs of maintaining tank cars that You own or lease to another Person, as well as the extent to which those costs are reimbursed by lessees of Your tank cars.

**Document Request No. 20**

Separately for each year from 2001 through 2016, produce document sufficient to show Your costs of maintaining tank cars that You lease from another Person, as well as the extent to which those costs are reimbursed by the lessor.

**Document Request No. 21**

Separately for each year from 2001 through 2016, for tank cars that You lease from another Person, produce documents sufficient to show Your payments to the lessor as reimbursement for the lessor's costs of owning the cars.

**Document Request No. 22**

Separately for each year from 2001 through 2016, for tank cars that You lease from another Person, produce documents sufficient to show Your payments to the lessor as reimbursement for the lessor's costs of maintaining the cars.

**Document Request No. 23**

Produce all documents relating to payments made pursuant to the Freight Tariff RIC 6007-Series for empty mileage associated with movements of tank cars from 2001 through 2016.

**Document Request No. 24**

Produce all Documents that contain, reflect, or otherwise refer or relate to plans or proposals for retrofitting tank cars.

**Document Request No. 25**

Produce all Documents that contain, reflect or otherwise refer or relate to Communications with Persons from whom or to whom You lease tank cars regarding the movement of tank cars to a Repair Facility.

**Document Request No. 26**

Produce all Documents that contain, reflect, or otherwise refer or relate to bids from and/or negotiations with a Repair Facility or a company that owns or operates a Repair Facility.

**Document Request No. 27**

Produce all contracts with Repair Facilities to which You have directed, since 2001, tank cars You own or lease.

**Document Request No. 28**

Produce all Documents that contain, reflect, or otherwise refer or relate to Communications to or from Persons from whom or to whom You lease tank cars regarding mileage allowances.

**Document Request No. 29**

Produce any contract and/or rate document under which a mileage allowance was paid by a railroad other than Union Pacific.

**Document Request No. 30**

Produce all documents that refer or relate to decisions by You to request zero-mileage rates rather than rates that include payment of a mileage allowance.

**Document Request No. 31**

Produce all documents that contain, reflect, or otherwise refer or relate to any analysis or projection of revenues You would receive as a result of rules regarding the rules adopted in the May 1, 2015, Final Rule issued by the Pipeline and Hazardous Materials Safety Administration and the Federal Railroad Administration regarding enhanced tank car standards, including but not limited to analyses or projections developed before the issuance of the Final Rule.

**Document Request No. 32**

Produce documents sufficient to show the average lease rate for tank cars, by car type, for tank cars You leased to other Persons in each month from 2001 through the present.

**Document Request No. 33**

Produce all documents discussing, analyzing, or relating to the reasons for selecting Repair Facilities, including without limitation, available capacity (or lack of capacity) at Repair Facilities, backlogs or delays in completing work at Repair Facilities, differences in pricing for

parts or services at Repair Facilities, preexisting agreements with Repair Facilities, or ownership or control (including by ownership or control by the tank car owner, lessor, or affiliates thereof) of Repair Facilities.

**Document Request No. 34**

Produce all documents discussing, analyzing, or relating to movements of tank cars from one Repair Facility to another Repair Facilities for any purpose, including without limitation, temporary storage, cleaning, inspections, testing, repairs, replacements or retrofits of any tank car.

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*Attorneys for Union Pacific Railroad Company*

August 3, 2017

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of August, 2017, I caused a copy of the foregoing document to be served by e-mail on all of the parties of record in NOR 42153.

/s/ Michael L. Rosenthal  
Michael L. Rosenthal