

ORIGINAL

Before the  
SURFACE TRANSPORTATION BOARD

204462

Docket No. 42052

UNION PACIFIC RAILROAD COMPANY--PETITION FOR  
DECLARATORY ORDER--UNILATERALLY IMPOSED INTERCHANGE CHARGES



ENTERED  
Office of the Secretary

JAN 18 2002

Part of  
Public Record

NOTICE OF INTENT

Joseph C. Szabo, <sup>1/</sup> for and on behalf of United Transportation Union-Illinois Legislative Board (UTU-IL), hereby gives notice of intent to participate in this proceeding, in accordance with the Board's notices served December 10, 2001, and January 14, 2002. 67 Fed. Reg. 2509-10 (Jan. 17, 2002).

1. UTU-IL is a party of record in this proceeding, having filed comments on August 11, 2000, which were served on all parties in accordance with the Board's decision served August 16, 2000. Accordingly, this additional notice of intent may be superfluous.

2. Counsel continues to represent UTU-IL; however, if conferences are held in Chicago, IL, it is understood Mr. Joseph C. Szabo likely will be in attendance. He serves on a number of industry-wide committees in the Chicago area, and has considerable operational experience.

3. UTU-IL is somewhat concerned with the Board's apparent belief that an "interchange" matter somehow invokes jurisdiction in

1/ Illinois Legislative Director for United Transportation Union, with offices at 8 So. Michigan Avenue, Chicago, IL 60603.

the Association of American Railroads (AAR), purportedly under car service or car-hire agreements approved by the Board or its predecessor. Since the majority of rail traffic is handled by more than one rail carrier, under the apparent theory of the Board, virtually all such interchange business would come under the AAR's ambit--and with claimed apparent anti-trust immunity.<sup>2/</sup>

4. UTU-IL does not, in general, favor the transfer of regulatory functions from the Board to the AAR. The Board is a public agency, whereas the AAR is a private organization which generally excludes the public.<sup>3/</sup>

  
GORDON P. MacDOUGALL  
1025 Connecticut Ave., N.W.  
Washington DC 20036

January 17, 2002

Attorney for Joseph C. Szabo

Certificate of Service

I hereby certify I have served two (2) copies of the foregoing upon Association of American Railroads, 50 F Street, N.W., Washington, DC 20001, by first class mail postage-prepaid.

Washington DC

  
Gordon P. MacDougall

<sup>2/</sup> Agency approval of a practice does not confer anti-trust immunity, as the shipping industry was reminded in Maritime Board v. Isbrandtsen Co., 356 U.S. 481 (1958). The railroad industry, generally, did not go to contract rates, despite the urging of ICC Chairman Gaskins (Chairman of ICC Charges Railroads With Reluctance to Compete, Address at 51st Anniversary of Assn. of ICC Practitioners, Scottsdale, AZ, June 25, 1980. 182 Traffic World, No. 13, Number 3819, at pp. 8-9, 6/30/80), until enactment of contract rate provisions in late 1980. For the view of one employee organization at the time of Reed-Bulwin-kle, see: Shott, John G., The Railroad Monopoly (Public Affairs Inst., 1950).

<sup>3/</sup> See: U.S. House: Hearings before the Subcommittee on Railroads, Committee on Transportation and Infrastructure, Disposition of the Railroad Authority of the Interstate Commerce Commission (104-11), pp. 478-79 (Jan. 26 & Feb. 22, 1995).