

DID #010202500/ RICHARD R. WILSON, P.C.

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888-454-3817 (Toll Free)
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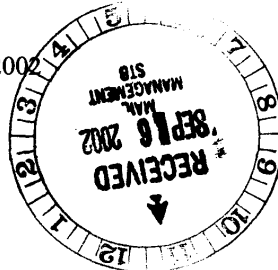
Attorney at Law
A Professional Corporation
127 Lexington Avenue, Suite 100
Altoona, PA 16601

Of Counsel to:
Vuono & Gray LLC
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800
(412) 471-4477 FAX

206166

NOR 42074

August 28, 2002



Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: C&NC Railroad Corporation v. Union Pacific Railroad Company
(Informal Complaint Seeking Damages Pursuant to 49 C.F.R. §1130.2)

Dear Sir:

Enclosed please find a check in the amount of \$50.00 which represents the additional filing fee for the above captioned case. Thank you for your attention to this matter.

Very truly yours,

ENTERED
Office of Proceedings

SEP 06 2002

Part of
Public Record

RICHARD R. WILSON, P.C.

Richard R. Wilson
Attorney for C&NC Railroad Company

RRW/klh
Enclosures
xc: C&NC Railroad Company

FILED

SEP 06 2002

SURFACE
TRANSPORTATION BOARD

FEE RECEIVED

SEP 06 2002

SURFACE
TRANSPORTATION BOARD

RICHARD R. WILSON, P.C.

Attorney at Law

A Professional Corporation

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Pittsburgh, PA 15219

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August 20, 2002

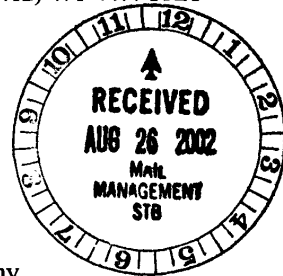
Secretary

Surface Transportation Board

1925 K Street, N.W.

Washington, DC 20423-0001

Not 42074



Re: C&NC Railroad Corporation v. Union Pacific Railroad Company
(Informal Complaint Seeking Damages Pursuant to 49 C.F.R. §1130.2)

Dear Sir:

Enclosed for filing please find the original and two copies of an Informal Complaint Seeking Damages Pursuant to 49 C.F.R. §1130.2. Also enclosed please find a filing fee in the amount of \$400.00.

Please date stamp and return the copy of this letter to indicate receipt of this pleading in the self-addressed stamped envelope for that purpose.

Copies of this pleading have been served on Respondent, Union Pacific Railroad Company.

Should you have any further questions in connection with this matter, please do not hesitate to contact the undersigned.

Very truly yours,

RICHARD R. WILSON, P.C.

Richard R. Wilson

Attorney for C&NC Railroad Company

RRW/klh

Enclosures

xc: C&NC Railroad Company

All Parties of Record

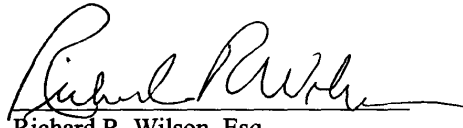
CERTIFICATE OF SERVICE

RICHARD R. WILSON, Attorney for C&NC Railroad Company, hereby certifies that on the 20th day of August, 2002 he did serve a true and correct copy of the foregoing **Informal Complaint Seeking Damages Pursuant to 49 C.F.R. §1130.2** upon the following parties of record, by first class mail, postage prepaid at their addresses as set forth below:

Mary Ann Kilgore, Esq.
Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

RICHARD R. WILSON, P.C.

By:


Richard R. Wilson, Esq.
Attorney for C&NC Railroad Company

BEFORE THE
SURFACE TRANSPORTATION BOARD



C&NC RAILROAD CORPORATION

v.

UNION PACIFIC RAILROAD COMPANY

INFORMAL COMPLAINT SEEKING DAMAGES
PURSUANT TO 49 C.F.R. §1130.2

FEE RECEIVED

SEP 06 2002

SURFACE
TRANSPORTATION BOARD

ENTERED
Office of Proceedings

SEP 06 2002

Part of
Public Record

August 20, 2002

Filed on Behalf of C&NC Railroad
Corporation by:

RICHARD R. WILSON, P.C.
Richard R. Wilson, Esq.
Pa. I.D. #25661
127 Lexington Avenue, Suite 100
Altoona, PA 16601
(814) 944-5302

FILED

SEP 06 2002

SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

C & NC RAILROAD CORPORATION

v.

UNION PACIFIC RAILROAD COMPANY
INFORMAL COMPLAINT SEEKING DAMAGES
PURSUANT TO 49 C.F.R. §1130.2



1. Complainant, C & NC Railroad Corporation ("C&NC") is a Class III common carrier which conducts common carrier rail service along a line of railroad between Connorsville and New Castle, IN, with offices located at 205 North Capital Avenue, Suite A, Corydon, IN 47112 and files this informal complaint seeking damages pursuant to 49 C.F.R. §1130.2.

2. Respondent, Union Pacific Railroad Company ("UP") is a Class I rail common carrier which provides rail service throughout the western United States with offices at 1416 Dodge Street, Omaha, NE 68179.

3. As part of its provision of common carrier rail services, C & NC holds itself out to provide to shippers and connecting carriers a depressed center heavy duty flat car pursuant to the terms and conditions set forth in Item 645, Supplement 43 to Freight Tariff RPS 6740-F. (Exhibit A)

4. On or about July 26, 2000, UP ordered a heavy duty flat car, Car No. CNUR900 from C&NC. On or about November 2, 2000, UP placed CNUR900 at a customer location in West Allis, WI for loading. On November 17, 2000, CNUR900 was released empty at that location. (Exhibit B)

5. Representatives of UP asserted that CNUR900 was rejected by the shipper because the dimensions of the car were smaller than published in the tariff description of the car making the car unacceptable for its intended use. Subsequently, on return of the car to C&NC, the car was remeasured with laser instruments and found to be slightly larger than its published description. This information was forwarded to UP together with an offer to have a third party verify dimensional information, but UP rejected that offer. (Exhibit C)

6. On November 30, 2000, C&NC invoiced UP for fifteen day detention charges pursuant to Item 645(3) which states origin detention charges will accrue to CNUR and will be paid to RGS Cars, Inc. by the origin line-haul carrier. (Exhibits A and D)

7. By letter dated August 16, 2001, UP denied the request for payment by C&NC asserting that UP had no basis for charging its shipper with origin detention charges in connection with CNUR900. (Exhibit E)

8. On September 4, 2001, C&NC responded to the August 16, 2001 declination by UP and advised UP of the tariff reference containing detention charges for CNUR900. (Subsequently, C&NC provided UP with a corrected billing in the amount of \$9,700 which reflected the elimination of a non-use charge which was only payable by the shipper, not the originating carrier.) (Exhibit F)

9. Despite subsequent efforts on the part of C & NC to resolve this matter, UP has refused and failed to respond to inquiries and has not made payment of the detention charges for CNUR900. (Exhibit G)

10. UP's declination of C&NC's corrected billing and its refusal to review and respond to efforts by C & NC to resolve this matter including its contention that it was not

responsible for published tariff charges for origin detention under the provisions of Item 645 RPS 6740-F constitutes unreasonable practices in violation of 49 U.S.C. §10702.

11. In accordance with the provisions of 49 U.S.C. §10704(b), C&NC initiates this informal complaint proceeding pursuant to 49 C.F.R. §1130.2 and requests that the Commission determine (a) the legality of UP's refusal to pay published tariff charges for origin detention under the provisions of Item 645 RPS 6740-F, (b) that under the facts and circumstances herein presented said charges are the legal tariff charges due and owing from UP to C&NC, and (c) award C&NC damages in the amount of \$9,700.00 plus costs and interest.

Respectfully submitted,

RICHARD R. WILSON, P.C.

A handwritten signature in black ink, appearing to read "Richard R. Wilson", with a long horizontal flourish extending to the right.

Richard R. Wilson

Attorney for C & NC Railroad Company

RICHARD R. WILSON, P.C.
127 Lexington Avenue, Suite 100
Altoona, PA 16601
(814) 944-5302

RAILROAD PUBLICATION SERVICES, AGENT

(Issued jointly with WTL)

SUPPLEMENT 43
TO

FREIGHT TARIFF RPS 6740-F

Supplements 35, 36, 40, 41, 42 and 43 contain all changes.

NAMING

USE AND CAR DETENTION CHARGES

ON

SPECIAL TYPE HEAVY-DUTY FLAT CARS

BETWEEN AND AT STATIONS IN				
ALABAMA	GEORGIA	MASSACHUSETTS	NEW MEXICO	SOUTH DAKOTA
ARIZONA	IDAHO	MICHIGAN	NEW YORK	TENNESSEE
ARKANSAS	ILLINOIS	MINNESOTA	NORTH CAROLINA	TEXAS
CALIFORNIA	INDIANA	MISSISSIPPI	NORTH DAKOTA	UTAH
COLORADO	IOWA	MISSOURI	OHIO	VERMONT
CONNECTICUT	KANSAS	MONTANA	OKLAHOMA	VIRGINIA
DELAWARE	KENTUCKY	NEBRASKA	OREGON	WASHINGTON
DISTRICT OF	LOUISIANA	NEVADA	PENNSYLVANIA	WEST VIRGINIA
COLUMBIA	MAINE	NEW HAMPSHIRE	RHODE ISLAND	WISCONSIN
FLORIDA	MARYLAND	NEW JERSEY	SOUTH CAROLINA	WYOMING

AND
BETWEEN STATIONS IN STATES NAMED ABOVE AND STATIONS IN CANADA; ALSO BETWEEN PORTS IN CANADA AS SPECIFICALLY PROVIDED HEREIN

This tariff is also applicable on Intrastate Traffic except where expressly provided to the contrary in connection with particular items.

HEAVY - DUTY FLAT CAR CHARGES

ISSUED SEPTEMBER 13, 2000

EFFECTIVE SEPTEMBER 15, 2000
(Except as otherwise provided herein)

ISSUED BY
RAILROAD PUBLICATION SERVICES, AGENT
151 ELLIS STREET, N.E., SUITE 200
ATLANTA, GA 30303

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LJH

EXHIBIT A

SUPPLEMENT 43 TO TARIFF RPS 6740-F

ITEM 2.10 PA

LIST OF PARTICIPATING CARRIERS
ALPHABETIZED BY STANDARD CARRIER ABBREVIATION
(See Note 1)

CARR ABBR	AAR CODE	NAME OF CARRIER	ITEM (S) (Note 2)
10 AGR	127	Alabama & Gulf Coast Railway, LLC.....	
10 AZER	91	Arizona Eastern Railway Company.....	
26 BOCT	84	Baltimore and Ohio Chicago Terminal Railroad Company, The.....	
▲ CNUR	129	C&NC Railroad Corporation.....	
12 CR	190	Consolidated Rail Corporation (CANCEL: adopted by CSX Transportation, Inc. and Norfolk Southern Railway Co. - EFFECTIVE June 1, 1999) D.....	
10 EARY	343	Eastern Alabama Railway.....	
42 KRL	577	Kasgro Rail Corporation d/b/a Kasgro Rail Lines.....	
10 KRR	424	Kamichi Railroad Company, L.L.C. (formerly Kamichi Railroad Company, Inc.).....	
10 KYLE	377	Kyle Railroad Company.....	
10 SJVR	738	San Joaquin Valley Railroad Co.....	
10 SWKR	806	San Pedro & Southwestern Railway Co.....	

EXPLANATION OF NOTES

12

D Cancel.

ITEM 2.20

CUMULATIVE INDEX OF NEW AND CHANGED ITEMS
(See Item 78 for Method of Cancellation)

ITEM	SUP	ITEM	SUP
2.10 PA.....	43	690-G.....	35
2.20.....	43	693-L.....	35
630-F.....	41	698-B.....	40
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SUPPLEMENT 43 TO TARIFF RPS 6740-F
GENERAL APPLICATION OF CHARGES

ITEM 645

CNUR CHARGES FOR USE, NON-USE AND DETENTION ON HEAVY CAPACITY OR SPECIAL TYPE FLAT CARS
APPLICATION

- The use or additional detention charges will apply on cars of CNUR ownership when these cars are furnished for use in:
 - Local or interline line-haul service for all carriers.
 - Switching service for all carriers.
 - Charges for switching service by CNUR are published in Tariff CNUR 8001 Series.
- The NON-USE charge will apply on cars of all ownership, except it will not apply to cars of TTX ownership.
- Charges assessed under this item will accrue to CNUR and are assigned and payable to RGS Cars, Inc., Suite A, 205 N. Capitol Avenue, Corydon, IN 47112. Origin detention charges will accrue to CNUR and be paid to RGS Cars, Inc. by the origin line-haul carrier. Destination detention charges will accrue to CNUR and be paid to RGS Cars, Inc. by the destination line-haul carrier.
- Charges assessed under this item will be in addition to any other charges, including normal demurrage charges and per diem charges.
- These charges will apply at and between all stations in the United States, and/or Canada.
- Cars of CNUR ownership and their basis for charges. If a car of CNUR ownership is NOT listed in this item but is listed in the HEAVY DUTY AND SPECIAL FLAT CAR section of Tariff RER 6413 series, the use charge will be that provided under basis for charges "Z": also the additional detention charges or non-use charge will apply to the unlisted car.
- Cars may not be used to/from points in Mexico without prior written permission of CNUR.

CAR NUMBER AND BASIS FOR CHARGES

CAR NUMBER	BASIS FOR CHARGES	CAR NUMBER	BASIS FOR CHARGES
CNUR 511	2	CNUR 900	1

USE CHARGES

- A. Application of BASIS FOR CHARGES (Dollars Per Car):

1	2
1,425	4,225

ADDITIONAL DETENTION CHARGES

- When cars of CNUR are held, the following detention charges (in dollars per car) will be assessed for each 24-hour period, or fraction thereof, after the first 0001-hour after placement, or after notification if car is held enroute.

1st 24 hours	FREE
2nd 24 hours	FREE
3rd 24 hours	250
4th 24 hours	375
5th 24 hours	425
6th 24 hours	500
7th 24 hours	500
8th 24 hours	650
9th 24 hours and each subsequent 24 hours	1,000

- When a car, other than CNUR ownership, is held in CNUR's account, a charge of \$55.00 dollars per car will be assessed for each 24-hour period, or fraction thereof, after the first 0001-hour after placement or after notification if the car is held enroute.

EXCEPTION - Detention charge will not apply to cars of TTX Company ownership. For charges to apply on cars of TTX Company ownership, see Item 690 Series.

- Placement is defined as follows:

- ACTUAL - When a car is placed in an accessible position for loading or unloading, or at a point designated by the consignor or consignee.
- CONSTRUCTIVE - When a car cannot be actually placed because of any condition attributable to the consignor or consignee and the car is held on railroad tracks.

NON-USE CHARGE

- When a CNUR car has been ordered and shipper is notified by carrier representative of car number assigned, and the car order is subsequently cancelled or postponed, shipper ordering car will be assessed a charge of \$680.00 per car. This charge will not apply if carrier is unable to place car on date ordered for placement.

ESCALATION OF CHARGES

- Charges named in this item are NOT subject to RCCR, selective or any other form of tariff increase provisions.

(T 6867)

SUPPLEMENT 43 TO TARIFF RPS 6740-F
GENERAL APPLICATION OF CHARGES

ITEM 658-A*CSXT CHARGES FOR USE, NON-USE AND DETENTION OF HEAVY CAPACITY OR SPECIAL TYPE FLAT CARS**

The use or additional detention charges will apply on cars of CSXT ownership when these cars are furnished for use in:

- A. Line-haul service for all carriers.
- B. Switching service for all carriers, other than CSXT.
- C. Charges for switching service by CSXT are published in CSXT 8100.
2. The NON-USE charge will apply on cars of all ownership, except it will not apply to cars of Trailer Train Company ownership.
3. Charges assessed under this item will accrue to CSXT.
4. Charges assessed under this item will be in addition to any other charges, including normal demurrage charges.
5. These charges will apply at or between all stations in the United States and/or Canada.
6. Cars of CSXT ownership and their basis for charges.
7. If a car of CSXT ownership and their basis for charges, but is listed in the HEAVY DUTY AND SPECIAL FLAT CAR section of Tariff RER 6413 Series, the use charge will be that provided under the basis for charges "Z": also the additional detention charges or non-use charge will apply to the unlisted car.

CAR NUMBERS AND BASIS FOR CHARGES

CAR NUMBER	BASIS FOR CHARGES	CAR NUMBER	BASIS FOR CHARGES	CAR NUMBER	BASIS FOR CHARGES	CAR NUMBER	BASIS FOR CHARGES
CSXT 600510	2	CSXT 600512	2	CSXT 600513	2	CSXT 600514	2
CSXT 600511	2						

USE CHARGES

Application of BASIS FOR CHARGES (Dollars Per Car):

2
 2,350

ADDITIONAL DETENTION CHARGES

1. When cars of CSXT ownership are held, the following detention charges (in Dollars Per Car) will be assessed for each 24-hour period, or fraction thereof, after the First 0001-hour after placement, or after notification if the car is held enroute:

1st 24 hours	FREE
2nd 24 hours	FREE
3rd 24 hours	250
4th 24 hours	325
5th 24 hours	400
6th 24 hours	500
7th 24 hours	775
8th 24 hours	900
9th 24 hours	1,000
10th - 19th 24 hours	1,100
20th - 29th 24 hours	1,700
30th 24 hours and each subsequent 24 hours	2,200

2. When a car other than of CSXT ownership, is held in CSXT's account, a charge of \$55.00 per car will be assessed for each 24 hour period, or fraction thereof, after the First 0001-hours after placement or after notification if the car is held enroute.

EXCEPTION - CHARGE WILL NOT APPLY TO CARS OF TRAILER TRAIN COMPANY OWNERSHIP

3. Placement is defined as follows:

- A. ACTUAL - When a car is placed in an accessible position for loading or unloading, or at a point designated by the consignee or consignor.
- B. CONSTRUCTIVE - When a car cannot be actually placed because of any condition attributable to the consignor or consignee and the car is held on railroad tracks.

NON-USE CHARGE

1. When a CSXT car has been ordered and shipper is notified by carrier representative of car number assigned, and car is enroute empty to assignee, and the car order is subsequently cancelled or postponed, shipper ordering car will be assessed a charge of \$600.00 per car. This charge will not apply, if carrier is unable to place car on date ordered for placement.
2. CSXT may, at its discretion secure a special type flat car owned or leased by another carrier (foreign line). If a shipper cancels or postpones an order for such foreign line car after the car has been received by CSXT, shipper ordering car will be assessed a charge of \$600.00 per car. This charge will not apply, if carrier is unable to place car on date ordered for placement.

ESCALATION OF CHARGES

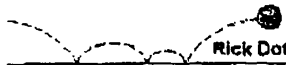
1. Charges named in this item are NOT subject to RCCR, selective or any other form of tariff increase provisions. Provisions formerly shown and not brought forward are hereby cancelled.
 (71 6868)

EXPLANATION OF REFERENCE MARKS

- ▲ Denotes Reduction.
 - ◆ Denotes Increase.
 - ▲ Denotes change in wording which results in neither increases nor reductions in charges.
 - (with number enclosed)-Reissued from supplement bearing the number enclosed within the square. See Item 100.
- S EFFECTIVE OCTOBER 4, 2000.**

C & NC RAILROAD, CORP LOCATION: CORYDON, IN		PAGE: 1	
		CUSTOMER NO: 25-UP	
		INVOICE NO: CKN0006	
		INVOICE DATE: November 30, 2000	
		REMIT TO: C & NC Railroad, Corp. 205 N. Capitol Ave. Suite A Corydon, IN 47112	
UNION PACIFIC 210 N. 13TH STREET, ROOM 1064 ST. LOUIS, MO 63103			
JOB DESCRIPTION NON-USE CHARGE FOR PLACEMENT OF HEAVY DUTY FLAT FOR LOADING PER RPS TARIFF 6740-F DETENTION CHARGES PER ATTACHED - CAR PLACED FOR LOADING AT FRANCO IN WEST ALLIS, WI 11/2/00 RELEASED 11/17/00			
DESCRIPTION		AMOUNT	
Placement Date 11/02/2000		Car Number CNUR 900	
Release Date 11/17/2000 DETENTION FOR 15 DAYS		9700.00	
REMARKS:		SUB-TOTAL 9700.00	
		DISCOUNT -	
		TOTAL DUE 9700.00	
		MEMO -	
		NET DUE 9700.00	
PREPARED BY: Renee Lindsey November 30, 2000			
FOR OFFICE USE ONLY			
AMOUNT REC: _____		DATE REC: _____	
CHECK: _____		DEPOSIT NO: _____	
ACCOUNT NUMBER 12/15/2000 CNUR Non-Use 49490-25-00 Detention 49310-25-00			

C & NC RAILROAD, CORP LOCATION: CORYDON, IN		PAGE: 1 CUSTOMER NO: 25-TRANCO INVOICE NO: CKN0075 INVOICE DATE: December 30, 2000	
TRANCO, INC 6810 W GREENFIELD AVENUE SUITE 201 MILWAUKEE, WI 53214		REMIT TO: C & NC Railroad, Corp. 205 N. Capitol Ave. Suite A Corydon, IN 47112	
JOB DESCRIPTION NON-USE CHARGE FOR PLACEMENT OF HEAVY DUTY FLAT FOR LOADING PER RPS TARIFF 6740-F DETENTION CHARGES PER ATTACHED - CAR PLACED FOR LOADING AT TRANCO IN WEST ALLIS, WI 11/2/00 RELEASED 11/17/00			
DESCRIPTION		Car Number	AMOUNT
<u>Placement Date</u> 11/02/2000		CNUR 900	680.00
<u>Release Date</u> 11/17/2000 DETENTION FOR 15 DAYS			
REMARKS:		SUB-TOTAL 680.00 DISCOUNT TOTAL DUE 680.00 MEMO NET DUE 680.00	
PREPARED BY: Renee Lindsey		December 30, 2000	
FOR OFFICE USE ONLY			
AMOUNT REC:		CHECK:	DATE REC:
ACCOUNT NUMBER 12/15/2000		CNUR Non-Use Detention	49490-25-00 49310-25-00

 Rick Doty 10/09/2000 10:24 AM

To: Rick Doty
cc:

Subject: TRANCO - W Allis, WI to Ravena, NY (4927) 2000-129

Forwarded by Rick Doty on 10/09/2000 10:21 AM

 Rick Doty
07/26/2000 03:51 PM

To: oprmjl@home.com@internet, wrthuro@txco.com@internet, Robert.Burkhardt@Railinc.net@internet,
cjboylen@txco.com@internet
cc: John W. Spurgeon@UP, 914045273454@notesfax, harry@thermc.com@internet (bcc: Rick Doty)

Subject: TRANCO - W Allis, WI to Ravena, NY (4927) 2000-129

ATTN: Pete Bell - CNUR

UNION PACIFIC RAIL ROAD

HEAVY DUTY CAR ORDER

CLEARANCE FILE: 4927

REQUIRE	2 Well Cars
LOADING DATE	September 25, 2000
ORIGIN	W. Allis, WI
SHIPPER	Tranco
CONTACT	Ed Henry 800-229-3180
COMMODITY	Shell Sections
DESTINATION	Ravena, NY
CONSIGNEE	Blue Circle Cement
ROUTE	UP CHGO CSXT
NET WT	188,000 lbs

OAL: 30' MAX HT (ATR): 18' MAX WIDTH: 8'

MISCELLANEOUS COMMENTS:

Will use LNAL 500400 & LNAL 500401

Would like to place order for CNUR 900, As we cannot locate LNAL 500400 in St Louis

FILE CL-2000-129

ATTN Pete Bell
From Rick Doty
UPRR
PA 800-544-0541
FAX 800-228-5976

*** TOTAL PAGE.01 ***

EXHIBIT B

12/18/00 CNUR
15:45:10

Query Responses

Page 1
RSDKPFR

Equip Init	Equip Number	Move Type	L E	Event Date	Event Hour	From Road	At/To Road	Station	ST	LCS Excp
CNUR	900	ARRI	E	11/27/00	8		CSXT	CONNERSVILLE	IN	
CNUR	900	DFLC	E	11/27/00	3		CSXT	CINCINNATI	OH	
CNUR	900	ARIL	E	11/25/00	9		CSXT	CINCINNATI	OH	
CNUR	900	DFLC	E	11/25/00	3		CSXT	LIMA	OH	
CNUR	900	ARIL	E	11/25/00	2		CSXT	LIMA	OH	
CNUR	900	DFLC	E	11/24/00	23		CSXT	GARRETT	IN	
CNUR	900	ARIL	E	11/24/00	16		CSXT	GARRETT	IN	
CNUR	900	ICHR	E	11/24/00	11	BOCT	CSXT	CHICAGO	IL	A
CNUR	900	ICHD	E	11/24/00	10	CSXT	BOCT	CHICAGO	IL	A
CNUR	900	DFLC	E	11/24/00	9		CSXT	CLEARING	IL	
CNUR	900	ICHD	E	11/23/00	5	BRC	CSXT	CLEARING	IL	A
CNUR	900	ICHR	E	11/23/00	0	UP	BRC	CLEARING	IL	A
CNUR	900	ARIL	E	11/21/00	15		UP	CHICAGO	IL	
CNUR	900	DFLC	E	11/21/00	4		UP	BUTLER	WI	
CNUR	900	BOHR	E	11/19/00	5		UP	BUTLER	WI	
CNUR	900	BOHR	E	11/17/00	18		UP	BUTLER	WI	
CNUR	900	ARIL	E	11/17/00	16		UP	BUTLER	WI	
CNUR	900	DFLC	E	11/17/00	14		UP	WEST ALLIS	WI	
CNUR	900	PACT	L	11/02/00	14		UP	WEST ALLIS	WI	
CNUR	900	ARIL	L	10/31/00	15		UP	WEST ALLIS	WI	
CNUR	900	DFLC	L	10/31/00	9		UP	BUTLER	WI	
CNUR	900	ARIL	L	10/30/00	10		UP	BUTLER	WI	
CNUR	900	DFLC	L	10/30/00	5		UP	CHICAGO	IL	
CNUR	900	BOHR	L	10/24/00	19		UP	YARD CENTER	IL	
CNUR	900	BOHR	L	10/24/00	4		UP	YARD CENTER	IL	
CNUR	900	BOHR	L	10/19/00	7		UP	YARD CENTER	IL	
CNUR	900	OSTH	L	10/18/00	8		UP	YARD CENTER	IL	
CNUR	900	ARIL	L	10/15/00	19		UP	YARD CENTER	IL	
CNUR	900	DFLC	L	10/15/00	17		UP	CHICAGO	IL	
CNUR	900	HMIS	L	10/15/00	13		UP	YARD CENTER	IL	
CNUR	900	ICHD	E	10/14/00	8	BRC	UP	CLEARING	IL	O
CNUR	900	ICHR	E	10/14/00	3	CSXT	BRC	CLEARING	IL	P
CNUR	900	ARIL	E	10/13/00	15		CSXT	LAFAYETTE	IN	
CNUR	900	DFLC	E	10/13/00	8		CSXT	INDIANAPOLIS AVON	IN	
CNUR	900	ARIL	E	10/12/00	13		CSXT	INDIANAPOLIS AVON	IN	
CNUR	900	DFLC	E	10/12/00	9		CSXT	CONNERSVILLE	IN	
CNUR	900	ICHD	E	10/10/00	7	CNUR	CSXT	CONNERSVILLE	IN	D
CNUR	900	ICHR	E	7/22/00	6	NS	CNUR	NEW CASTLE	IN	I
CNUR	900	ICHD	E	5/24/00	5	AARG	CNUR	999999999		

** END OF REPORT **

12/18/00 CNUR
15:44:37

Query Responses Report (Last 10 moves)

Page 1
RSDTPFR

Query Type: Q17

-Equipment- Init Number	Move Type	L E	-- Event -- Date Hour	From Road	At/To Road Station	St
CNUR 900	ARRI	E	11/27/00 8		CSXT CONNERSVILLE	IN
CNUR 900	DFLC	E	11/27/00 3		CSXT CINCINNATI	OH
CNUR 900	ARIL	E	11/25/00 9		CSXT CINCINNATI	OH
CNUR 900	DFLC	E	11/25/00 3		CSXT LIMA	OH
CNUR 900	ARIL	E	11/25/00 2		CSXT LIMA	OH
CNUR 900	DFLC	E	11/24/00 23		CSXT GARRETT	IN
CNUR 900	ARIL	E	11/24/00 16		CSXT GARRETT	IN
CNUR 900	ICHR	E	11/24/00 11	BOCT	CSXT CHICAGO	IL
CNUR 900	ICHHD	E	11/24/00 10	CSXT	BOCT CHICAGO	IL
CNUR 900	DFLC	E	11/24/00 9		CSXT CLEARING	IL

** END OF REPORT **

C&NC Railroad Corporation

Suite A
205 N. Capitol Ave.
Corydon, IN 47112

(812) 735-4230
(812) 735-7384 FAX

April 3, 2001

Fran Whiteley
Billing Services
Union Pacific Railroad
210 N. 13th, Room 300
St. Louis, MO 63103

FAX: 888-699-8409

RE: File CL-2000-129 - Request for CNUR 900
Waybill Bill 994321
C&NC Invoice: CKN0096 - Non-use and Detention Charges

Dear Ms. Whiteley:

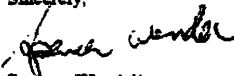
Union Pacific requested the use of our car CNUR 900 to West Allis, WI to load a rotary kiln section 7' 11" wide. Per Ed Henry of Tranco, Inc. their equipment would not fit on the car. The car specifications indicate the well of the car is 8 feet. We have re-measured the well of the car using laser measurements and determined that the well of the car is actually larger than the specifications indicate. In conversation with Rick Doty and Tony Yancheck of the Union Pacific, I have been advised that Union Pacific is denying payment of our Invoice CKN0096 for the non-use and detention charges as the customer, Tranco, indicated the well of the car was smaller than indicated on the specifications.

Car CNUR 900 was ordered for use per your request file CL-2000-129 and was placed at Tranco 11/2/00 and was released 11/17/00. The car was delivered as requested and held for fifteen (15) days, for which compensation is due.

In an attempt to settle this dispute, we would agree to have the Western Weight and Inspection Bureau inspect the car to determine the actual size of the well. If the Union Pacific request to have the car inspected by the Western Weight and Inspection Bureau and they determine that the car is 8 feet or larger, Union Pacific agrees to pay for: a) the cost of the inspection and b) the amount of \$10,380.00 due per our invoice CKN0096 (see attached). If they determine the well of the car is smaller than the 8 feet indicated on the specifications, we will pay for the inspection and waive the balance of the invoice.

Please contact my office within the next two weeks to arrange for payment and/or an inspection, as you deem necessary. Thank you for your assistance in resolving this matter.

Sincerely,


Spencer Wendelin

/r/
enclosures

EXHIBIT C

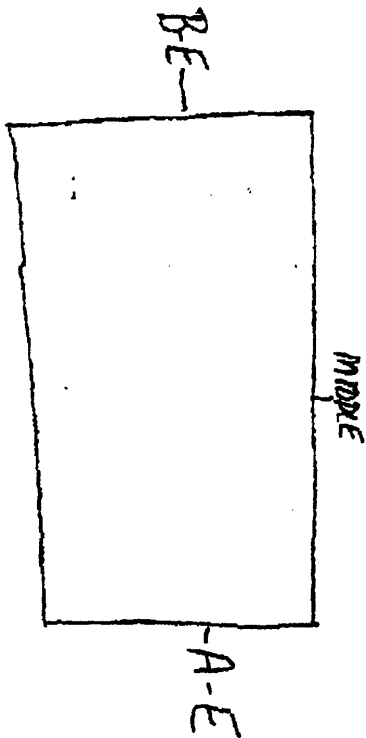
08/17/2001 13:40 1-888-699-8409
08/07/01 14:39 FAX 8127387384
03/20/2001 13:50 7658271308

UPRR
TRANSMARK ASSOCI
CNC LOGISTICS

PAGE 05/06
004
PAGE 81

CHUR 900

LASER MEASUREMENTS



B-END	MIDDLE	A-END
TOP 8' 2 1/4"	TOP 8' 2 1/4"	TOP 8' 1 1/2"
MIDDLE 8' 2 1/4"	MIDDLE 8' 1 1/4"	MIDDLE 8' 1 1/4"
Bottom 8' 2 1/4"	Bottom 8' 1 1/2"	Bottom 8' 1 1/4"

C&NC RAILROAD LOCATION: CORYDON, IN	PAGE: 1 CUSTOMER NO: 10-UP INVOICE NO: CKN0096 INVOICE DATE: November 30, 2000												
TONY YANCHECK UNION PACIFIC 210 N. 13TH STREET, ROOM 1064 ST. LOUIS, MO 63103	REMIT TO: C&NC Railroad 205 N. Capitol Ave. Suite A Corydon, IN 47112												
JOB DESCRIPTION: NON-USE CHARGE FOR PLACEMENT OF HEAVY DUTY FLAT FOR LOADING PER RPS TARIFF 6740-F DETENTION CHARGES PER ATTACHED - CAR PLACED FOR LOADING AT FRANCO IN WEST ALLIS, WI 11/2/00 RELEASED 11/17/00													
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 70%;">DESCRIPTION</th> <th style="text-align: right; width: 30%;">AMOUNT</th> </tr> </thead> <tbody> <tr> <td style="padding-top: 10px;"> <u>Placement Date</u> 11/02/2000 NON-USE CHARGE <u>Car Number</u> CNUR 900 </td> <td style="text-align: right; vertical-align: bottom;">680.00</td> </tr> <tr> <td style="padding-top: 10px;"> <u>Release Date</u> 11/17/2000 DETENTION FOR 15 DAYS </td> <td style="text-align: right; vertical-align: bottom;">9,700.00</td> </tr> </tbody> </table>	DESCRIPTION	AMOUNT	<u>Placement Date</u> 11/02/2000 NON-USE CHARGE <u>Car Number</u> CNUR 900	680.00	<u>Release Date</u> 11/17/2000 DETENTION FOR 15 DAYS	9,700.00							
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<u>Release Date</u> 11/17/2000 DETENTION FOR 15 DAYS	9,700.00												
REMARKS:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">SUB-TOTAL</td> <td style="text-align: right;">10,380.00</td> </tr> <tr> <td>DISCOUNT</td> <td></td> </tr> <tr> <td>TOTAL DUE</td> <td style="text-align: right;">10,380.00</td> </tr> <tr> <td>MEMO</td> <td></td> </tr> <tr> <td>NET DUE</td> <td style="text-align: right;">10,380.00</td> </tr> </table>	SUB-TOTAL	10,380.00	DISCOUNT		TOTAL DUE	10,380.00	MEMO		NET DUE	10,380.00		
SUB-TOTAL	10,380.00												
DISCOUNT													
TOTAL DUE	10,380.00												
MEMO													
NET DUE	10,380.00												
PREPARED BY: <u>Renee Lindsey</u> 30-Nov-00													
FOR OFFICE USE ONLY													
DATE REC: _____													
AMOUNT REC: _____ CHECK: _____ DEPOSIT NO: _____													
<table style="width: 100%;"> <tr> <td style="width: 30%;">ACCOUNT NUMBER</td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 30%;"></td> </tr> <tr> <td>12/18/2000</td> <td>CNUR</td> <td>Non-Use</td> <td>49490-25-00</td> </tr> <tr> <td></td> <td></td> <td>Detention</td> <td>49310-25-00</td> </tr> </table>		ACCOUNT NUMBER				12/18/2000	CNUR	Non-Use	49490-25-00			Detention	49310-25-00
ACCOUNT NUMBER													
12/18/2000	CNUR	Non-Use	49490-25-00										
		Detention	49310-25-00										

EXHIBIT D

NATIONAL CUSTOMER
SERVICE CENTER

UNION PACIFIC RAILROAD COMPANY

210 N. 13TH STREET
ST. LOUIS, MISSOURI 63103



August 16, 2001

Clifford Steele
C&NC Railroad
205 N. Capitol Avenue
Suite A
Corydon, IN 47112

Re: Waybill Bill 994321
C&NC Invoice: CKN0096 - Non-use and Detention Charges

Dear Mr. Steele,

We are denying your request for payment on C&NC Invoice CKN0096. The charges were not created by Union Pacific and the UP has no basis for charging the shipper C&NC charges associated with this car. Thus, we do not have a responsibility for payment. The party responsible for the non-use charge and any applicable detention charges would be Tranco Mammoet. Their billing address is:

Tranco Mammoet
C/O Ed Henry
6610 W. Greenfield Ave.
Suite 201
West Allis, WI 53214-4958
(800) 229-3180 Phone

In researching of this bill, the following additional information was discovered:

1. The UP does not have clean car records as to when car was spotted or rejected by Tranco. We show the car being released from hold for spotting on 11/1/00 and departing West Allis on 11/17/00. But, the actual dates of when car was spotted and available for loading by Tranco (i.e. how long they had the car), may not be the dates you are claiming for detention purposes.
2. A Tariff Item covering the non-use and the detention charges for this car could not be found. This may make it more difficult to collect from Tranco, as there is no basis for the rates associated with these charges.

We apologize that the reason for denying this claim was not conveyed in earlier correspondence regarding this bill.

Sincerely,

Chris Reed

EXHIBIT E

C&NC Railroad Corporation

Suite A
205 N. Capitol Ave.
Corydon, IN 47112

(812) 738-4230
(812) 738-7384 FAX

September 4, 2001

Chris Reed
Union Pacific Railroad Company
210 N. 13th Street
St. Louis, MO 63103

RE: Waybill 994321
C&NC Invoice: CKN0096 – Non-use and Detention Charges

Dear Mr. Reed:

Your denial of payment of Invoice CKN0096 is not acceptable based on the fact that Union Pacific requested the CNUR 900 per your file CL-2000-129 dated 7/26/00 made by Rick Doty. The car was shipped per your request and placed at your customer's location on 11/2/00. The car was held for fifteen (15) days, for which compensation is due. Our records clearly indicate the car was placed at West Allis on 11/2/00 and departed on 11/17/00.

The Tariff item covering the non-use and the detention charges for CNUR 900 can be found in Tariff RPS 6740-F, Heavy-Duty Flat Car Charges, beginning with Supplement 43 effective date September 15, 2000.

Payment in full of Invoice CKN0096 totaling \$10,380.00 is due within 30 days of this notice or your account will be turned over to our attorney for collection. In the event this action is necessitated, Union Pacific will be held liable for all attorney fees associated with this past due account. Your immediate attention is requested to avoid any additional fees being assessed on this invoice. Thank you for your prompt attention to this matter.

Sincerely,

Clifford Steele

Clifford Steele
Controller

/rl

EXHIBIT F

RICHARD R. WILSON, P.C.

Attorney at Law

A Professional Corporation

**127 Lexington Avenue, Suite 100
Altoona, PA 16601**

(814) 944-5302
888-454-3817 (Toll Free)
(814) 944-6978 FAX
rrwilson@charterpa.com

Of Counsel to:

Vuono & Gray LLC
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800
(412) 471-4477 FAX

November 1, 2001

Mr. James V. Dolan
Vice President of Law
Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

Re: Non-Payment of Flat Car Detention Charges Under Tariff RPF 6740-F
Supplement 43 effective September 15, 2000

Dear Mr. Dolan:

I am writing to you in my capacity as counsel for C&NC Railroad Corporation ("C&NC") in an effort to resolve Union Pacific Railway Company's ("UP") declination of an invoice from my client in the amount of \$10,380.00 (subsequently corrected to \$9,700.00) for detention charges associated with a heavy duty flat car ordered by UP from my client.

As established by the enclosed documentation, Mr. Richard Doty of UP ordered CNUR 900, a heavy flat car on July 26, 2000. CNUR 900 was placed by UP at its customers' location in West Allis, WI on November 2, 2000. CNUR 900 was released empty at that location on November 17, 2000. UP representatives asserted that the dimensions of the car were smaller than that published in the tariff description of the car making the car unacceptable for its intended use. Subsequently, upon return of the car to C&NC, the car was remeasured with laser instruments and found to be slightly larger than its published description. This information was forwarded to UP together with an offer to have a third party verify this information. UP rejected that offer. By correspondence dated August 16, 2001 Mr. Chris Reed of the UP National Customer Service Center claimed that they had no basis for charging the shipper for the use of the car although UP had clearly ordered the car. C&NC advised Mr. Reed that the rates for flat car detention and non-use were published in RPS 6740 and that under item 645 of Supplement 43 it explicitly states:

Origin detention charges will accrue to CNUR and be paid
to RGS Cars, Inc. by the origin line haul carrier. (Emphasis
added)

EXHIBIT G

Mr. James V. Dolan
Page Two
November 1, 2001

Thus, under this tariff provision, UP is legally responsible for \$9,700.00 representing 15 days detention charges for CNUR 900.

I have enclosed for your information the following documents:

1. Correspondence to UP dated September 4, 2000 from C&NC outlining its position.
2. Correspondence dated August 16, 2001 from UP outlining its position with respect to these charges.
3. Correspondence dated April 3, 2001 from C&NC addressing UP's reason for rejecting the car due to alleged problems with car size.
4. Two pages of a computer query tracing the car movement showing the car being placed at West Allis, WI on November 2, 2000 and not being moved again until November 17, 2000.
5. Copy of UP's railroad way bill from the UP Internet site.
6. Copy of Mr. Doty's email directed to Mr. Pete Bell of C&NC.
7. Copy of the initial invoice to UP for \$10,380.00.
8. Copy of the published tariff item for depressed center flat car detention charges.
9. Copy of a corrected invoice to UP for \$9,700.00 in detention charges.
10. Copy of a corrected invoice to Tranco Mammonett for \$680.00 for non-use charge.

Once a member of your staff has had an opportunity to review these documents, would he or she contact me to see if it is possible to resolve this matter without resort to litigation. If that cannot be accomplished, it will be necessary for C&NC to bring this matter before the Surface Transportation Board to determine if UP's refusal to pay the flat car detention charges under Item 645 constitutes an unreasonable practice under the ICC Termination Act of 1995.

Thank you for your consideration of this matter.

Very truly yours,

RICHARD R. WILSON, P.C.



Richard R. Wilson

RRW/klh
Enclosures

xc: C&NC Railroad Corporation

RICHARD R. WILSON, P.C.

Attorney at Law

A Professional Corporation

127 Lexington Avenue, Suite 100

Altoona, PA 16601

(814) 944-5302

888-454-3817 (Toll Free)

(814) 944-6978 FAX

rrwilson@charterpa.com

Of Counsel to:

Vuono & Gray LLC

2310 Grant Building

Pittsburgh, PA 15219

(412) 471-1800

(412) 471-4477 FAX

January 24, 2002

VIA EMAIL

Mary Ann Kilgore, Esq.

Union Pacific Railroad Company

1416 Dodge Street

Omaha, NE 68179

Re: Non-Payment of Flat Car Detention Charges Under Tariff RPF 6740-F
Supplement 43 effective September 15, 2000

Dear Attorney Kilgore:

On November 1, 2002 I advised you of the outstanding claim on behalf of C&NC with respect to the heavy flat car charges assessed against Union Pacific Railway Company. You indicated in our last telephone conversation that you would need some time in which to research this matter and you have now had several months in which to do so. Would you please advise me whether or not it will be possible to resolve this matter without litigation or must I file a Complaint with the Surface Transportation Board?

Thank you for your prompt response to this request.

Very truly yours,

RICHARD R. WILSON, P.C.

/s/

Richard R. Wilson

RRW/klh

xc: C&NC Railroad Corporation

RICHARD R. WILSON, P.C.

Attorney at Law

A Professional Corporation

127 Lexington Avenue, Suite 100

Altoona, PA 16601

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rrwilson@charterpa.com

Of Counsel to:

Vuono & Gray LLC

2310 Grant Building

Pittsburgh, PA 15219

(412) 471-1800

(412) 471-4477 FAX

March 29, 2002

James Dolan, Esq.
Vice President, Law
Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

Re: Non-payment of Flat Car Detention Charges - C&NC Railroad Corporation

Dear Mr. Dolan:

On November 1, 2001, I wrote to you on behalf of C&NC Railroad regarding a past due detention charge of \$9700.00 associated with a heavy duty flat car ordered by UP from my client. This matter was referred to Attorney MaryAnne Kilgore for further investigation. On January 24, 2002, I wrote to Ms. Kilgore and requested that she provide me with her evaluation of this matter. (copy attached). Thereafter, I have contacted her and left voice mail messages which she has not returned. I recognize that a \$9700.00 claim from a short line railroad is likely not the most pressing matter on Ms. Kilgore's agenda. However, if she is not able to address this matter, I will have no recourse to but to file a complaint with the STB to seek a resolution.

I am sorry to have to bring this to your attention again and I hope we can resolve this matter without STB involvement.

Very truly yours,

RICHARD R. WILSON, P.C.



Richard R. Wilson

RRW/klh

xc: C&NC Railroad Corporation