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October 11, 2005

Surface Transportation Board
Chairman Roger Nober
1925 K Street, N.W.
Washington, D.C. 20423-0001
Tel: (202) 565-1656

Dear Chairman Nober:

Thank you for your interest in the rate notification incidents Grain Processing has recently experienced with rail carriers and for contacting your office of compliance and enforcement. We appreciate our local link to your organization through Connie Thede of the RSTAC and the assistance offered by Katherine Bezold of your Rail Consumer Assistance Program.

We believe that the Staggers Act has more than served its purpose of allowing railroads to earn reasonable revenue to the point that railroads no longer feel obligated to properly notify shippers of rate increases or to negotiate reasonable rates with and for shippers.

The following incidents that have occurred within the last forty-five days have led us to this opinion. We are submitting them to you for the purposes of the October 19 hearing and for your awareness for corrective action.

1.) A CN rate item to which we subscribe via the carrier's website took a rate increase effective September 1, but we did not receive notice of the increase. We happened to find it looking up a rate to a new point which was within the same rate item in the carrier's website. When we asked the carrier why we did not get notice of the increase, the reply was: "Market Managers have the 'right' under CN's system to cancel a tariff or tariff supplement on 20 day's notice (if an increase is forthcoming) and reissue tariff or supplement with new rates, new effective or expiry dates or new terms. In theory, if you or I are subscribers – there should be an e-mail notification sent out to all subscribers....(additional text as to the fact that there are so many notices the salesperson wasn't sure if a notice for this item was sent or not)...

When we've tried to go to bat (as salespeople) for customers who are surprised to find a tariff has changed – we're told that since all of these tariffs are on the web and as customers have the opportunity to subscribe and view the tariffs at any time – it's the customers' responsibility to track tariff changes."

Further discussion with the CN resulted in a call from their person in charge of electronic commerce. That person didn't know why we didn't get the required notice and just said that we should have.

After speaking with Ms. Bezold, I told the CN that we knew that under 49 CFR Section 1300.4, the railroad is required to give a shipper non-passive notice and that expecting the shipper to pull increases from the web-site is certainly only passive notice. Since then I've received email notices of price changes, and one even listed the requested affected item numbers. However, the CN is not consistent in identifying what has changed within the rate item. Therefore the shippers are still left to hunt for the impact of the rate change to their specific lanes.

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2.) The CSXT did inform us of a change to a rate item but did not inform what points are affected. Again shippers must check all possible points to find the impacted lanes. What's even more frustrating for the shipper is the frequency of change. CSXT 4072 announced a change 8/10/05 and another one 10/1/05. Both times I searched at least 70 O/D pairs to find changes in 5 or less points each time. This does not serve as the notice required by CFR 49.

3.) The UP gives notice on the date a rate item is changed but does not provide the required 20-day non-passive notice. We had reason to believe that a change to UP 4053 Item 4015 was going to take place on October 1 so I faithfully checked each email notice of price document changes and frequently went to the website to search by document, current and pending, only to find nothing. I finally found out about the upcoming rate increase only after requesting a rate to a point that was not covered in the tariff and the quote included a comment about a tariff increase that would be taking place. When I asked our sales person about it I was told that advance notice of this change was available on their announcement page of their website – another passive way of informing the shipper. It is inexcusable that the "Current and Pending" section of the rate document shows NO indication of the pending rate increase.

4.) Our most recent effort to negotiate a contract with the NS required a phone call to upper level management before the pricing manager would even talk to us, one day after the contract had actually expired. The contract was due to expire on September 19. Grain Processing requested a renewal offer on August 30. A reply was given on September 7 with the increase being presented as a package deal. Objection to the offer was sent on September 13. On September 16, a phone call was made to the NS because there was no reply to the objection. We were told that the pricing manager was travelling and that we should hear something on Monday, expiration day. We did not hear back on Monday so on Tuesday an urgent message was sent and followed up with a phone call. We were told that if we could not accept the original offer we had to reconsider our position or begin using the tariff rates which are three times the amount of the proposed rates. This is blackmail. A phone call to upper management resulted in the NS agreeing to discuss the rates but we were unpleasantly surprised by the railroad's lack of response prior to the expiration of the contract.

Each incident has demonstrated to Grain Processing a higher level of arrogance by the railroads. They have embraced the attitude that they no longer are obligated to give shippers adequate notice of rate increases and that they can mandate rate increases rather than negotiate them in contracts. The Staggers Act is no longer serving its intended purpose and must be changed. We believe it is time for re-regulation of the railroads to protect the shippers and our national economy.

If I can provide any further information, please let me know. Thank you again for your interest and assistance with this issue.

Sincerely,



Lisa Longtin
Manager Rail and Barge Operations

Copy to: Katherine Bezold, STB; Connie Thede, RSTAC; B. Willis