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Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: STB Docket No. EP 765, *Rulemaking to Establish a Voluntary Arbitration Program for Small Rate Disputes*

Dear Ms. Brown:

Union Pacific Railroad Company (“Union Pacific”) supports the efforts of the Surface Transportation Board (“Board”) to create the Voluntary Arbitration Program for Small Rate Disputes (“ADR program”). As you know, Union Pacific and its railroad partners jointly petitioned the Board to provide our customers with a streamlined and cost-effective option for the resolution of small rate disputes. Union Pacific participated throughout the Board’s post-petition process creating an ADR program and is deeply appreciative of the work the agency committed to making our joint proposal a regulatory reality.

However, Union Pacific is concerned about several aspects of the ADR program as set in the Board’s December 19, 2022, final rule. Those program concerns, which are weighty enough for Union Pacific to have filed a Petition for Reconsideration on January 24, 2023, include:

1. Authorizing freight customers to use the deeply flawed and poorly defined revenue adequacy constraint as a basis for relief;
2. Granting precedential value to ADR program decisions issued by the Board on appeal;
3. Requiring all Class 1 carriers to participate in the program for it to become operative;
4. Requiring all Class 1 carriers to decide whether to opt-in to the program within 20 days after the effective date of the rule;
5. Having the lead arbitrator selected by the STB rather than by the parties’ selected arbitrators; and,
6. Referencing “regulated commodities” rather than “regulated traffic.”

Union Pacific looks forward to participating fully in the Board’s ADR program once the above concerns have been satisfactorily resolved.

Respectfully,

Craig V. Richardson