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**SURFACE TRANSPORTATION BOARD ORDERS RAILROAD TO ESTABLISH
SEPARATELY CHALLENGEABLE BOTTLENECK RATE TO FACILITATE RAIL
CONTRACT**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has ordered the Union Pacific Railroad Company (UP) to establish common carriage rates for the transportation of soda ash from Westvaco, WY to the gateways of East St. Louis and Chicago, IL to permit the movement of the soda ash to points beyond the gateways using available transportation contracts. This decision is the first application of the Board's decisions in Central Power & Light Co. v. Southern Pac. Transp. Co., Nos. 41242 et al. (STB served Dec. 31, 1996), STB (1996), clarified (STB served Apr. 30, 1997), STB (1997) (collectively, Bottlenecks), pets. for review pending, Nos. 97-1081 et al., MidAmerican Energy Co. v. Surface Transp. Bd. (8th Cir. submitted after oral arg. Nov. 18, 1997).

In Bottlenecks, the Board provided guidance as to how it would address "bottleneck" rate cases, that is, cases involving situations in which more than one railroad may be involved in providing service from an origin to a destination, but only one -- the "bottleneck carrier" -- can serve either the origin or the destination. Among other things, the Board found that, where a connecting carrier and a shipper have entered into a transportation contract to govern service over the non-bottleneck segment of an established through route, the bottleneck carrier must establish a common carriage rate that can be used in conjunction with the contract service. The Board noted that, in this situation, a shipper filing a rate complaint would not be required to challenge the entire through route, as it would otherwise be required to do, but rather would be able to challenge the bottleneck segment separately.

The case currently before the Board involves a situation in which UP, as a bottleneck carrier, moves FMC Corporation's soda ash from Westvaco to the gateways of East St. Louis and Chicago under a transportation contract that is about to expire. The traffic is interchanged at the gateways with a connecting railroad, which provides delivery under a contract with FMC. FMC and UP, however, have been unable to agree on a new contract for the bottleneck portion of the service. In response to FMC's request for separate common carriage bottleneck rates, UP established rates that could only be used in conjunction with the connecting carrier's common carriage rates and not with the connecting carrier's contract service.

The Board found that the destination contract that FMC maintains with UP's connecting carrier was "evidence of the mutual intention of the shipper and connecting carrier to move the traffic under that agreement," and that UP's restricted common carriage rates would improperly negate the transportation contract that FMC and the connecting carrier had negotiated. Therefore, the Board directed that, unless the connecting carrier repudiates its contract with FMC by December 23, 1997, UP must establish separate (and separately challengeable) rates that will allow the shipper to move traffic under the contracts it has negotiated with the delivering railroad.

The Board's decision was issued today in FMC Wyoming Corporation and FMC Corporation v. Union Pacific Railroad Company, F.D. No. 33467.

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