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SURFACE TRANSPORTATION BOARD FINDS UNREASONABLY HIGH 15 UNION PACIFIC RATES CHARGED TO FMC WYOMING CORP.

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision finding that 15 different rates charged to and from the facilities of the FMC Wyoming Corporation and the FMC Corporation (collectively, FMC) at Westvaco and Kemmerer, Wyoming, and Dry Valley, Idaho, by the Union Pacific Railroad Company (UP) are unreasonably high. The FMC had challenged UP's transportation rates for soda ash, sodium bicarbonate, sodium sesquicarbonate, phosphorus and phosphate rock to or from its facilities. Upon review of the public record in this case, the Board ordered UP to reduce those rates and to pay reparations to FMC.

The Board found that it could not examine the reasonableness of one additional FMC-challenged rate--a rate charged by UP to transport coke from Kemmerer to Don, Idaho--because FMC has an effective intermodal alternative for that transportation. By statute, the Board's jurisdiction to evaluate the reasonableness of a railroad's rates is limited to those situations where the carrier has "market dominance" over the traffic involved. Market dominance refers to "an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies."

The Board found that UP has market dominance over the soda ash, sodium bicarbonate, sodium sesquicarbonate, phosphorus and phosphate rock traffic covered by the other 15 rates under challenge. For that traffic, the Board evaluated the reasonableness of the rates using the stand-alone cost (SAC) test. The SAC test seeks to determine the lowest cost at which a hypothetical, efficient railroad could provide the transportation services needed by a group of shippers. Under the SAC test, the complaining shipper designs a new, optimally efficient (hypothetical) railroad specifically tailored to serve a traffic group designated by the shipper. The costs of building and operating such an efficient railroad are then compared to the revenues that such a system could be expected to earn. If, as in this case, the shipper demonstrates that the stand-alone railroad would earn more than necessary to cover all of its costs (including a reasonable return), the shipper is entitled to rate relief.

In this case, the SAC analysis examined the projected earnings and operations of a hypothetical railroad for the 20-year period 1997-2017. The results of that analysis showed that in each year of that 20-year period, the stand-alone railroad would generate greater revenues than it would need to cover all the costs that would be incurred in, or assigned to, those individual years. On the basis of this result, the Board concluded that the challenged rates should be reduced by 1.6% in 1997, 6.8% in 1998, and 9.52% in 1999. Because the evidence accepted by the Board indicated that the traffic group designated by the shipper would double its overall traffic levels over the 20-year period, the Board's rate prescriptions could result in greater future annual rate reductions in later years if those traffic projections prove to be accurate.

The Board's decision was issued today in *FMC Wyoming Corp. and FMC Corp. v. Union Pacific Railroad Company*, STB Docket No. 42022. Vice Chairman Burkes commented with a separate expression.

A printed copy of the decision is available for a fee by contacting: **Da-To-Da Office Solutions, Room 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 466-5530.** The decision also is available on the Board's web site at **www.stb.dot.gov**. **[STOP]**