

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

FRA WAIVER PETITION DOCKET No. FRA-2007-28700

Brake System Safety Standards for Freight and Other Non-passenger
Trains Railroad and Freight Car Safety Standards
(49 C.F.R. Parts 232 and 215)

August 22, 2018

REQUEST FOR HEARING AND EXTENSION OF TIME TO SUBMIT COMMENTS

BY

THE BROTHERHOOD OF RAILWAY CARMEN DIVISION
TRANSPORTATION COMMUNICATIONS UNION / IAM

AND

THE TRANSPORT WORKERS UNION OF AMERICA

Due to the importance of this issue in the railroad industry and the lack of information provided by the Kansas City Southern Railway Company (KCSR) in its petition for waiver modification, the Brotherhood Railway Carmen Division, Transportation Communications Union (BRC) and the Transport Workers Union of America (TWU) requests that a hearing be held concerning this Docket and the time to submit comments be extended to 90 days after the public hearing is held. The notice was published on July 24, 2018 and comments are currently due on August 23, 2018.

A hearing was similarly held for Union Pacific's (UP's) first attempt to perform the required tests and inspections in Mexico without these same tests and inspections being performed by UP on the U.S. side of the border. (FRA-2004-18746). In addition, a hearing was also scheduled for UP's second attempt in 2006. (FRA-2006-25765). However the scheduled hearing never transpired because UP withdrew its petition for test waiver prior to the hearing. The proposal set forth in the KCSR petition is substantially similar to what UP and Kansas City Southern de Mexico (KCSM) proposed in Dockets FRA-2004-18746 and FRA-2006-25765.

In addition, KCSR did not meet the statutory requirements of Section 416 of the Rail Safety Improvement Act of 2008, October 16, 2008, P.L. 110-432, Div. A, Title IV, § 416, 122 Stat. 4890 (RSIA). In fact, KCSR does not even mention Section 416 of the RSIA in its petition for waiver modification and the RSIA provisions are not waivable. Moreover, in 2011, FRA denied a petition for waiver similar to KCSR's petition that was filed by the Burlington Northern Santa Fe Railway Company (BNSF) because BNSF did not meet the statutory requirements of Section 416 of the RSIA. (FRA-2010-0126)

What is at stake in this matter is the safe operation of those trains that originate in Mexico and continue onward into the interior of the U.S. Safety is a common goal of all the parties involved in these proceedings, and all the necessary steps must be taken to assure safe operation of these trains. For the reasons provided above, BRC and TWU request that a hearing be held concerning this Docket and that the time to submit comments be extended to 90 days after the public hearing is held.

Thank you for the opportunity to comment.

Respectfully submitted,



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