

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on)	RULE AND REGULATION NO. 182
Its own motion, seeking to amend)	
Title 291, Chapter 3, Motor Carrier)	RESPONSE TO ORDER
)	RELEASING SECOND
Rules and Regulations, to rewrite)	SET OF PROPOSED RULES
the chapter in its entirety.)	FOR COMMENTS AND
)	SCHEDULING HEARING
)	

Comments of Union Pacific Railroad Company regarding the second set of proposed Rules and Regulations to Title 291, Chapter 3, Motor Carrier Rules and Regulations.

Union Pacific opposes the proposed changes to Section 006.02A of the Rule and Regulation No. 182. The requirement that carriers that provide transportation for railroad crews (“**Railroad Van Companies**”) provide uninsured and underinsured motorist insurance coverage (“**UM/UIM Coverage**”) appears to address a perceived problem. The requirement does not in fact promote increased safety. Finally, the proposed changes are unnecessary because the railroad employees already have recourse for their injuries. The proposed changes increase insurance cost for accidents involving uninsured/underinsured motorists without providing additional protection.

As stated in Union Pacific’s previous comments, Union Pacific employees are protected in the event of an automobile accident, regardless of fault, through Union Pacific’s contractual requirements for companies transporting Union Pacific employees. As noted in Exhibit 6 to the record of the Sept. 25, 2014 Nebraska Public Service Commission hearing regarding Rule and Regulation No. 182 Section 006.02A, railroad employees enjoy the following protections:

- *Union Pacific’s Business Automobile Policy:* Union Pacific carries a \$2,000,000 automobile policy that covers accidents, including coverage for injuries caused by uninsured/underinsured motorists when in Union Pacific owned or leased vehicles;
- *The Federal Employer’s Liability Act:* Railroad workers who claim to have been injured in the course and scope of their employment are exempt from state workers’ compensation laws and, instead, are covered under the Federal Employer’s Liability Act (“**FELA**”). Where the employee is able to demonstrate that his or her injury was caused by the railroad’s negligence, the recoverable damages are not subject to a cap;
- *Off-Track Vehicle Benefits:* Pursuant to the respective labor agreements, the railroads provide Off-track Vehicle Benefits (“**OTV Benefits**”) for their employees who are injured while riding in an “off-track vehicle” (i.e., a vehicle that does not travel on railroad tracks, which would obviously include crew vans). OTV Benefits are not fault-based. For members of the United Transportation Union, whom Mr. Dinsmore represents, OTV benefits provide \$300,000 coverage for loss of life, and between \$150,000 and \$300,000 coverage for the loss of one or both of the employee’s hands or feet or the loss of sight in one or both eyes. In addition, OTV Benefits provide compensation for wage loss due to a covered injury;
- *Health Insurance:* Pursuant to the National Agreement, Union Pacific (and other

railroads) provide, or substantially subsidize, health insurance for their employees. This covers health care expenses from injuries including those experienced as a result of an accident while riding in a crew van;

- *United States Railroad Retirement Board Benefits:* In addition to the foregoing, railroad employees are also eligible to receive benefits from United States Railroad Retirement Board (“**RRB**”), including Railroad Unemployment Insurance Act (“**RUIA**”) benefits, which provide sickness benefits for up to ninety days following an accident during which period an employee is unable to work; and
- *Van Company Liability Insurance:* Pursuant to Union Pacific’s contracts with the van companies that it hires, the van companies are required to carry a minimum of \$5,000,000 in liability insurance that would provide coverage for circumstances in which the van company is found liable.

For these reasons, Rule 006.02A, a proposal to require additional uninsured/underinsured insurance coverage for Railroad Van Companies, is unnecessary and unwarranted, and would only serve to add an additional financial burden to Railroad Van Companies.