

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

UNION PACIFIC RAILROAD COMPANY,

Respondent.

DOCKET TR-180854

SETTLEMENT AGREEMENT

**I. OVERVIEW**

1 Staff of the Washington Utilities and Transportation Commission (Staff) and Union Pacific Railroad Company (Union Pacific) (collectively “the Parties”), through their authorized representatives, enter into the following settlement agreement (Agreement) to resolve all issues in Docket TR-180854, which concerns Union Pacific’s compliance with a statewide incident reporting regulation regarding an incident that occurred on August 6, 2018, with respect to the release and clean-up of an estimated ten gallons of nitric acid.

2 This Agreement is a “full settlement” as defined in WAC 480-07-730(1) because it is entered into by all parties and resolves all issues raised in the docket. This Agreement is subject to the review and disposition by the Washington Utilities and Transportation Commission (Commission) to determine whether it complies with the applicable legal requirements and whether approval of the Agreement is consistent with the public interest. WAC 480-07-740-750.

## II. TERMS OF AGREEMENT

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The Parties have reached an agreement on the issues raised in the above docket and present this Agreement for the Commission's consideration and approval. The Parties therefore adopt the following Agreement, which the Parties enter into voluntarily, to resolve the matters in dispute between them and to expedite the orderly disposition of this proceeding:

- a) Violations: Union Pacific admits that although clean up was promptly addressed once the correct department within the company received notification of the incident, it did not notify the Washington State Emergency Operations Center (EOC) until eleven days after one of Union Pacific's contracted employees first learned of the release. WAC 480-62-310 requires railroad companies subject to the Commission's jurisdiction to report such events to the EOC within thirty minutes of learning of the event. Each day the violation continued is considered a separate and distinct violation. RCW 81.04.380.
- b) Monetary penalty: The Commission will impose a penalty of \$11,000, the maximum penalty allowed by law. In the interest of resolving this matter without further undue burden and expense, Union Pacific will pay the \$11,000 within 30 calendar days of a Commission order approving the Agreement.
- c) Future enforcement of allegations set forth in complaint: Staff confirms that it will not pursue further enforcement against Union Pacific arising out of any of the allegations set forth in Docket TR-180854.

### III. GENERAL PROVISIONS

4           Public interest: The Parties submit that this Agreement promotes the public interest,  
and that it is appropriate for the Commission's acceptance without conditions under  
WAC 480-07-750(2)(a).

5           Effective date: This Agreement is effective on the service date of a final Commission  
order approving this Agreement, or on the date that an initial order approving this  
Agreement becomes a final order pursuant to WAC 480-07-825(7), which ever occurs first.

6           Advocacy: The Parties agree to cooperate in submitting this Agreement promptly to  
the Commission for acceptance. The Parties agree to support adoption of this Agreement in  
proceedings before the Commission. No party to this Agreement or its agents, employees,  
consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of  
this Agreement.

7           Publications: The Parties agree (1) to provide each other the right to review in  
advance of publication any and all announcements or news releases that the other party  
intends to make about the Agreement (with the right of review to include a reasonable  
opportunity to request changes to the text of such announcements) and (2) to include in any  
news release or announcement a statement that Staff's recommendation to approve the  
Agreement is not binding on the Commission itself.

8           Construction: This Agreement shall not be construed against any party solely  
because that party was a drafter of the Agreement.

9           Other proceedings: This Agreement is for settlement purposes only and shall have no  
precedential or preclusive effect in other proceedings. In the event this Agreement does not

become effective, this Agreement shall be null and void, with no binding effect on the Parties and with no precedential or preclusive effect on Union Pacific or Staff regarding the continued litigation in Docket TR-180854. In the event that the Commission rejects all or any portion of this Agreement, or accepts the settlement upon conditions not proposed in this Agreement, each party reserves the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 business days of service of the Order rejecting part or all of this Agreement or imposing conditions not proposed in this Agreement. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and the Parties agree to request the prompt reconvening of a prehearing conference and to cooperate in developing a procedural schedule.

*10*            Settlement discussions: The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty, and delay. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission order fully adopting those terms.

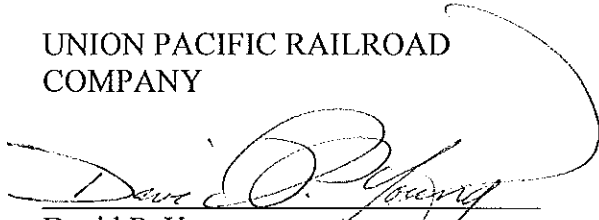
*11*            Final agreement: The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein.

*12*            Counterparts: The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. A signed signature page sent by facsimile or email is as effective as an original document.

Authorized representatives: Each person signing this Agreement warrants that he or she has authority to bind the party that he or she represents.

DATED this 22nd day of March, 2019.

UNION PACIFIC RAILROAD  
COMPANY



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WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION

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Attorney for Commission Staff

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DATED this 22nd day of March, 2019.

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TRANSPORTATION COMMISSION

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