
BEFORE THE PUBLIC SERVICE COMMISSION

**IN THE MATTER OF LOGAN CITY'S
PETITION REQUESTING
INVESTIGATION INTO UNION PACIFIC
RAILROAD COMPANY'S
ADMINISTRATION OF AGREEMENTS
AND MAINTENANCE PROVISIONS**

Docket No. 21-888-01

REBUTTAL TESTIMONY AND EXHIBITS

OF KENNETH TOM

ON BEHALF OF UNION PACIFIC RAILROAD COMPANY

1 **Q. Please state your name and business address.**

2 A. Ken Tom. My business address is 2015 S. Willow Ave., Bloomington, CA 92316.

3 **Q. Please state your occupation and employment information.**

4 A. I am employed by Union Pacific Railroad (“UP”) and have been for over 17 years. I am
5 currently Manager of Industry and Public Projects Group and have been in this position for
6 the last year and a half.

7 **Q. Have you previously filed testimony in this proceeding?**

8 A. Yes. I filed direct testimony on March 1, 2022.

9 **Q. What is the purpose of your rebuttal testimony?**

10 A. The purpose of my rebuttal testimony is to rebut the statements of James Golden regarding
11 his alleged safety concerns and the statements of Thomas Dickinson regarding the lack of
12 maintenance costs in certain unrelated reports and agreements, as well as his statements
13 regarding giving notice to Logan City’s contractor to commence work.

14 **Q. James Golden has testified that as Logan City’s project was nearing completion, he
15 felt that there was a safety concern if UP’s work was not completed prior to the City
16 of Logan opening the new traffic lanes leading up to the crossing. Did either the Utah
17 Department of Transportation (“UDOT”) or Logan City communicate to UP that
18 there had been any observation of safety issues?**

19 A. No, not that I’m aware of. Neither UDOT nor the City of Logan communicated any
20 observation of safety issues to me.

21 **Q. Thomas Dickinson has testified that UP’s Preliminary Engineering Agreement
22 (“PEA”) did not contain any terms or provisions regarding maintenance fees. Why
23 were maintenance fees not addressed in the PEA?**

24 A. The purpose of the PEA is for design review and it covers only preliminary meetings and
25 a project's conceptual design and engineering.

26 **Q. Thomas Dickinson has testified that the surveillance report, attached to his testimony**
27 **as Exhibit 2, also did not include any discussion of maintenance costs or fees. Why**
28 **were maintenance costs not discussed in the surveillance report?**

29 A. UDOT issued the surveillance report, and maintenance costs or fees are not discussed in
30 surveillance reports because the diagnostic is simply a field review of the proposed project.

31 **Q. Why didn't UP's crossing estimate contain any terms or provisions regarding**
32 **maintenance fees for the crossing?**

33 A. The crossing estimate is for materials and design only, and its purpose is to identify the
34 cost of and what will be owed to UP for the work to widen the crossing within our right of
35 way.

36 **Q. Did Logan City ask UP when maintenance costs would be discussed?**

37 A. No, not to my knowledge.

38 **Q. Thomas Dickinson has testified that after receiving UP's crossing estimate, Logan**
39 **City issued its contractor a notice to proceed, authorizing the contractor to begin**
40 **construction work. Did the City inform UP that it intended to have its contractor**
41 **commence construction?**

42 A. No, it did not. The Construction and Maintenance Agreement had not been finalized or
43 executed yet. Work within the railroad right of way would have required a Right of Entry
44 Agreement and flagman.

45 **Q. Thomas Dickinson has testified that UP declined to allow Logan City's contractor to**
46 **proceed with construction within UP's right of way until the maintenance issue was**
47 **resolved. Why didn't UP allow construction to proceed within its right of way?**

48 A. The Construction and Maintenance Agreement has provisions and information necessary
49 for contractors to obtain before entry into the right of way such as a right of entry form,
50 100% approved plans, and other requirements such as when work can be commenced,
51 conditions, property access training, insurance, indemnification, safety measures, flagging
52 and a preconstruction meeting performed by UP approved personnel, etc.

53 **Q. Was UP ever provided a copy of the information sent by Logan City to the Utah**
54 **Attorney General's office on July 28, 2020?**

55 A. Not that I am aware of.

56 **Q. Does this conclude your rebuttal testimony?**

57 A. Yes.